MONTANA LEGISLATIVE HISTORY

Chapter 258 [redacted] 2041

Bill H _____ S 124 Original bill & history ~~—~~ C

H. Committee on Fish, Wildlife, Parks

Hearing Date(s)		
	3-17	___C
	3-24	___C
	_____	___C
	_____	___C
Date Out	3-24	___C

S. Committee on Fish + Game

Hearing Date(s)		
	1-13	___C
	_____	___C
	_____	___C
	_____	___C
DATE OUT	1-13	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

House Floor

3-30 2nd Reading Concurred
3-31 3rd Reading Concurred

Senate Floor

1-18 2nd Reading Passed
1-19 3rd Reading Passed

4-5 2nd Reading House Amend. concurred
4-6 3rd Reading Passed as Amended by House

Compiled 2-3-16
By

SB 121 INTRODUCED BY WANZENRIED *LC0117 DRAFTER: SCURR*

LIMITING THE NUMBER OF CONSECUTIVE TERMS FOR JURY DUTY

1/06 INTRODUCED
1/06 REFERRED TO JUDICIARY
1/17 BILL NOT HEARD AT SPONSOR'S REQUEST
2/18 TABLED IN COMMITTEE
2/24 MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL
DIED IN STANDING COMMITTEE

SB 122 INTRODUCED BY WANZENRIED *LC0600 DRAFTER: MARTIN*

REQUIRE PASSAGE OF REVENUE ESTIMATING RESOLUTION

1/06 INTRODUCED
1/06 REFERRED TO TAXATION
1/19 HEARING
2/01 TABLED IN COMMITTEE
3/30 MISSED DEADLINE FOR REFERENDUM PROPOSAL TRANSMITTAL
DIED IN STANDING COMMITTEE

SB 123 INTRODUCED BY TUTVEDT *LC1066 DRAFTER: NISS*

ENACT DISQUALIFICATION REQUIREMENT FOR SUPREME COURT JUSTICES

12/30 FISCAL NOTE PROBABLE
1/06 INTRODUCED
1/06 REFERRED TO JUDICIARY
1/06 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/13 FISCAL NOTE SIGNED
1/13 FISCAL NOTE PRINTED
1/20 BILL NOT HEARD AT SPONSOR'S REQUEST
2/18 TABLED IN COMMITTEE
2/24 MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL
DIED IN STANDING COMMITTEE

SB 124 INTRODUCED BY RIPLEY *LC0099 DRAFTER: STOCKWELL*

REORGANIZE AND RECODIFY FISH AND GAME CRIMINAL STATUTES

1/06	INTRODUCED		
1/06	REFERRED TO FISH AND GAME		
1/13	HEARING		
1/13	COMMITTEE EXEC ACTION—BILL PASSED	10	0
1/14	COMMITTEE REPORT—BILL PASSED		
1/18	2ND READING PASSED	49	0
1/19	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/01	REFERRED TO FISH, WILDLIFE AND PARKS		
3/17	HEARING		
3/24	COMMITTEE EXEC ACTION—CONCURRED AS AMD	20	0
3/26	COMMITTEE REPORT—CONCURRED AS AMD		
3/30	2ND READING CONCURRED	100	0
3/31	3RD READING CONCURRED	99	0
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING HOUSE AMDS CONCURRED	47	2
4/06	3RD READING PASSED AS AMENDED BY HOUSE	46	3
4/06	SENT TO ENROLLING		
4/07	RETURNED FROM ENROLLING		
4/11	SIGNED BY PRESIDENT		
4/12	SIGNED BY SPEAKER		
4/12	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
4/21	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 258		
	EFFECTIVE DATE: 10/01/2011 - ALL SECTIONS		

BILL NO. 124

INTRODUCED BY _____ _____ _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA."

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 16, urging that revision of the criminal codes within Title 87 of the Montana Code Annotated be given priority; and

WHEREAS, House Joint Resolution No. 16 noted that practitioners, judges, and citizens find that the criminal codes intertwined within the fish and game laws in Title 87 are difficult to read, understand, and prosecute; and

WHEREAS, House Joint Resolution No. 16 directed that revision of the Title 87 criminal code should not include policy changes to current laws and should adhere to the intent of the legislatures that crafted the laws; and

WHEREAS, in 2008, the Director of Fish, Wildlife, and Parks appointed a Title 87 criminal code revision working group, consisting of Justices of the Peace, County Attorneys, an Assistant Attorney General, legal counsel and the enforcement administrator of the Department of Fish, Wildlife, and Parks, and legislative staff; and

WHEREAS, the working group met numerous times and spent countless hours crafting a revision that

INTRODUCED BILL
SB 124

makes the Title 87 criminal code more understandable without making substantive or policy changes to present law; and

WHEREAS, revision of the fish and game criminal statutes will benefit the hunting and fishing public, magistrates, and prosecutors by codifying crimes and penalties in a separate chapter of Montana law, rather than being intertwined throughout Title 87.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(7) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(8) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(9) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(10) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(11) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(12) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(13) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(14) "Knowingly" has the meaning provided in 45-2-101.

(15) "Livestock" includes ostriches, rheas, and emus.

(16) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,

including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(17) "Negligently" has the meaning provided in 45-2-101.

(18) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(19) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(20) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(21) "Person" means an individual, association, partnership, and corporation.

(22) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(23) "Purposely" has the meaning provided in 45-2-101.

(24) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(25) "Resident" has the meaning provided in 87-2-102.

(26) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(27) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(28) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(29) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(30) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(31) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild

turkey, and chukar partridge.

(32) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(33) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(34) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(35) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing.

NEW SECTION. **Section 2. Designation of violations.** A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor unless a felony is expressly provided by law.

NEW SECTION. **Section 3. Fish and game violation as inchoate offense.** Any violation of this title is an offense for purposes of the crimes of attempt, solicitation, and conspiracy set out in Title 45, chapter 4.

NEW SECTION. **Section 4. Fish and game code not to supersede criminal code -- statute of limitations.** (1) The penalty provisions of this title are intended to supplement but not supersede the provisions of Title 45. Nothing in this title limits the prosecution of any conduct defined as an offense in Title 45.

(2) Unless otherwise provided, the general time limitations for prosecutions for violations of any offense under this title are those time limitations specified in 45-1-205.

NEW SECTION. **Section 5. Penalties in addition to Title 37.** Notwithstanding the provision of this chapter, the penalties provided by this chapter are in addition to any penalties provided in Title 37, chapter 47.

NEW SECTION. **Section 6. Lawful taking to protect livestock or person.** (1) [Sections 1 through 80] may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this title if the wildlife is attacking, killing, or threatening to kill a person or livestock. However, for purposes of

protecting livestock, a person may not kill or attempt to kill a grizzly bear unless the grizzly bear is in the act of attacking or killing livestock.

(2) A person may kill or attempt to kill a wolf or mountain lion that is in the act of attacking or killing a domestic dog.

(3) A person who, under this section, takes wildlife protected by this title shall notify the department within 72 hours and shall surrender or arrange to surrender the wildlife to the department.

NEW SECTION. **Section 7. Violation of commission or department order or rule.** A person who purposely, knowingly, or negligently violates an order or rule of the commission or department shall be fined not less than $50 or more than $500. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or

more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 9. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt.** (1) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, labeling, or packaging a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal may be subject to the additional penalties provided in [sections 63 and 64].

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 10. Hunting or fishing during closed season.** (1) A person may not hunt or attempt to hunt:

(a) any game animal or game bird or fish for or catch any fish during the closed season on any species of game animal, game bird, or fish; or

(b) an upland game bird until the commission provides an open season on that upland game bird. The open season on mourning doves is restricted to the open season on upland game birds.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting during a closed season may be subject to the additional penalties provided in [sections 63 and 64].

NEW SECTION. **Section 11. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion or wolf, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63].

NEW SECTION. **Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game

animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

NEW SECTION. **Section 13. Unlawful sale of grizzly bear.** (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount of a grizzly bear may not sell it if it has not been registered with the department pursuant to 87-3-110.

(2) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

NEW SECTION. **Section 14. Unlawful use of aircraft or boat.** (1) Except as provided in 87-3-126, a person may not:

(a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, including a helicopter;

(b) use an aircraft or helicopter for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game bird, migratory bird, game animal, or fur-bearing animal; or

(c) if in an aircraft, including a helicopter, spot or locate any game animal or fur-bearing animal and communicate the location of the game animal or fur-bearing animal to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.

(2) Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:

(a) during emergency situations;

(b) when search and rescue operations are being conducted; or

(c) for predator control as permitted by the department of livestock.

(3) A person may not use a powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game bird, game animal, or fur-bearing animal.

(4) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (4), a person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

NEW SECTION. **Section 15. Unlawful contest or prize.** (1)(a) Except as provided in subsections (1)(b)

and (1)(c), a person, firm, or club may not offer or give a prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, or fur-bearing animal or any bird or animal protected by law.

(b) A prize may be awarded for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.

(c) A person may conduct or sponsor a contest for which the monetary prize, certificate, or award does not exceed $50 for a person who kills a game animal possessing the largest antlers or horns, carrying the greatest weight, or having the longest body or any similar contest based upon the size or weight of a game animal or part of a game animal. The monetary restriction provided in this subsection (1)(c) does not apply to recognition given by a nationally established and recognized Boone and Crockett trophy institute.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 16. Harassment.** (1) (a) A person may not:

(i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

(ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or

(iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

(i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or

(ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of a violation of this section shall be fined not more than $500 or be imprisoned for not more than 30 days, or both. A person convicted of a second or subsequent violation shall be fined not more than $1,000 or be imprisoned for not more than 1 year, or both.

(3) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(4) As used in this section:

(a) "fishing" means the lawful means of fishing as described in [section 45];

(b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

(c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal, predatory animal, or fish.

NEW SECTION. **Section 17. Unlawful supplemental feeding.** (1) A person may not provide supplemental feed attractants to game animals by:

(a) purposely or knowingly attracting any cloven-hoofed ungulates, bears, or mountain lions with supplemental feed attractants;

(b) after having received a previous warning, negligently failing to properly store supplemental feed attractants and allowing any cloven-hoofed ungulates, bears, or mountain lions access to the supplemental feed attractants; or

(c) purposely or knowingly providing supplemental feed attractants in a manner that results in an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.

(2) A person is not subject to civil or criminal liability under this section if the person is engaged in:

(a) the normal feeding of livestock;

(b) a normal agricultural practice;

(c) cultivation of a lawn or garden;

(d) the commercial processing of garbage; or

(e) recreational feeding of birds unless, after having received a previous warning by the department, the person continues to feed birds in a manner that attracts cloven-hoofed ungulates or bears and that may contribute to the transmission of disease or constitute a threat to public safety.

(3) This section does not apply to supplemental feeding activities conducted by the department for

disease control purposes.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 18. Shooting at simulated wildlife.** (1) A person may not discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state statute or commission rule regulating the hunting of the wildlife being simulated when the decoy is being used by a certified peace officer.

(2) A person convicted of a violation of this section is subject to the same penalty as prescribed for the state statute or commission rule violated during the attempted hunting of the actual wildlife being simulated. In addition, the person shall pay restitution of $50 to the department for the repair of damages to simulated wildlife decoys.

NEW SECTION. **Section 19. Checking station offenses.** (1) A person, upon the request of the director, the director's authorized representative, or any game warden, shall produce for inspection any current fish and game license that has been issued to the person and any game animals, birds, fish, or fur-bearing animals in the person's possession. Hunters or anglers entering or leaving areas for which checking stations have been established shall stop and report if a checking station is on the hunter's or angler's route of travel to or from the hunting or fishing area and personnel are on duty.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 20. Unlawful relocation of fish.** (1) A person or firm may not:

(a) place or cause to be placed caged live fish in any of the public waters of the state of Montana, except as provided by department regulation;

(b) without written department approval, move live or dead salmonid fish or eggs from one in-state location to another when the fish or eggs are known to be infected with fish pathogens specified by the department as posing a threat to fisheries;

(c) import live salmonid fish or eggs into Montana without meeting the requirements of 87-3-221; or

(d) discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems pursuant to 87-3-222(2).

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 21. Field trial offenses.** (1) A person may not conduct a field trial unless the person has a permit under 87-4-915.

(2) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any of the terms of the permit.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 22. Hunting, fishing, or trapping without license.** (1) Except as provided in subsection (2), a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department if the person is 16 years of age or older.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in [sections 63 and 64].

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 23. Unlawful procurement of license, permit, or tag.** (1) A person may not:

(a) subscribe to or make any materially false statement on an application or license. Any material false statement contained in an application renders the license issued pursuant to it void.

(b) purchase a hunting, fishing, or trapping license without first having obtained a wildlife conservation license pursuant to 87-2-201; or

(c) purposely or knowingly assist an unqualified applicant in obtaining a resident license.

(2) A license agent may not sell any hunting, fishing, or trapping license to:

(a) an applicant who fails to produce the required identification at the time of application for licensure

pursuant to 87-2-106(1) and 87-2-202(1); or

(b) a person who does not present the person's wildlife conservation license at the time of application for the licenses.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 24. Nonresident license or permit offenses.** (1) A person who is not a resident may not:

(a) apply for or purchase for a nonresident's use the following resident licenses and permits:

(i) wildlife conservation license;

(ii) hunting license or permit; or

(iii) fishing license or permit;

(b) affirm to or make a false statement to obtain a resident license.

(2) A person convicted of a violation of this section shall be fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000 or be imprisoned in the county jail for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for not less than 18 months.

NEW SECTION. **Section 25. License, permit, or tag offenses.** (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in [section 26(2)], a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 26. Unlawful possession of hunting or fishing license or permit.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of a hunting or fishing license or permit if the person knowingly carries or has physical control over a valid and unused:

(a) hunting license or permit issued to another person while in any location that the species to be hunted may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

(c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or rule.

(2) The prohibition in subsection (1) does not apply:

(a) to a person who is carrying or has physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person; and

(b) when a properly obtained and validated license or permit is attached to a lawfully killed game animal.

(3) Except as provided in subsection (4), a person who violates this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to

use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued or by knowingly carrying, having physical control of, or selling two or more licenses or permits that were issued in violation of applicable law or rule is guilty of a felony and upon conviction shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and lose the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

NEW SECTION. **Section 27. Hunting, fishing, or trapping while privileges or licenses forfeited or suspended.** (1) A person may not hunt, fish, or trap while the person's license or privilege to hunt, fish, or trap in this state is forfeited for a violation of this title or any other law pertaining to fish and game in this state. A person convicted of a violation of this section may be fined not less than $500 or more than $2,000 and shall be imprisoned in the county detention center for not less than 5 days or more than 6 months.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not hunt, fish, or trap in this state while that privilege is suspended. A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 28. Unlawful procurement of license while privileges forfeited or suspended.** (1) A person whose privilege to hunt, fish, or trap in this state is forfeited for a conviction or forfeiture of bail or bond for a violation under [sections 1 through 80] in this state may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit while that privilege is forfeited.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not apply for or purchase any license to hunt, fish, or trap in this state while that privilege is suspended.

(3) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 29. Failure to surrender license for violation in participating state.** A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, and who refuses to surrender any current hunting, fishing, or trapping license as required shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 30. Offense of noncompliance in Montana.** A person who hunts, fishes, traps, purchases licenses, or refuses to surrender any current hunting, fishing, or trapping license in violation of [section 76] shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 31. Offense of noncompliance in participating state.** A person who hunts, fishes, or traps, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, fishing, or trapping license in violation of 87-1-804 shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 32. Unlawful special application or entry.** A person convicted of unlawfully applying for or entering a drawing for any special license or permit in violation of [section 75] shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 60 days, or both.

NEW SECTION. **Section 33. Unlawful use of equipment while hunting.** (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife

except predatory animals and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm;

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 34. Unlawful hunting within city or town.** (1) A person may not hunt or attempt to hunt any deer within the boundaries of any incorporated or unincorporated city or town of this state except as allowed under a plan developed by a city or town and approved by the department pursuant to 7-3-1105, 7-3-1222, or 7-31-4110.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 35. Unlawful hunting from public highway.** (1) Except as provided in 87-2-803(4), a person may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 36. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (5), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 37. Unlawful use of vehicle while hunting.** (1) Except as provided in 87-2-803(4), a person may not:

(a) hunt or attempt to hunt any game animal or game bird from any self-propelled or drawn vehicle; or

(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(2) Except as provided in 87-2-803(4), a person may not, while hunting a game animal or bird:

(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush,

or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;

(b) use a motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

(3) The restrictions in subsection (2) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land and not to hunting on federal land unless the federal agency specifically requests or approves state enforcement.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 38. Unlawful destruction of evidence of sex.** (1) A person who kills a big game animal in this state may not destroy evidence of the sex of the big game animal so as to make the determination of the sex of the big game animal uncertain.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 39. Migratory game bird offenses.** A person who violates any provision of 87-3-403 related to migratory game birds shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 40. Tagging of game animal offenses.** (1) Each license issued by the department authorizing the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the department prescribes. When a person kills a game animal under the license, the person shall immediately cut out from the tag, coupon, or other marker the date the animal was killed and attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license holder, the license holder's address, and any other information requested on the tag, coupon, or other marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed. When a game animal has been lawfully killed and the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal becomes the property of the person who lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

(2) A person who kills any game animal by authority of any license issued for the killing of the game animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the game animal or portion of the game animal.

(3) A person may not fail to keep the tag, coupon, or other marker attached to the game animal or portion of the game animal while the animal is possessed by the person.

(4) A person may not tag a game animal with a tag restricted to a hunting district other than the hunting district where the game animal was killed.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in

77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 41. Tagging of turkey offenses.** (1) A person who kills, captures, or possesses a wild turkey by authority of any turkey tag or permit may not:

(a) fail or neglect to attach the tag to the turkey;

(b) fail to validate the tag by not filling out or punch marking the tag as required; or

(c) fail to keep the tag attached while the turkey is possessed by the person.

(2) A person who takes or kills a turkey must immediately attach to the turkey's leg a valid tag in compliance with instructions on the tag.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 42. Hunting or killing over limit.** (1) A person may not attempt to kill, take, shoot, or capture or kill, take, hunt, shoot, or capture more than one game animal of any one species in any 1 license year unless the killing of more than one game animal of that species has been authorized by regulations of the department.

(2) If a person is convicted or forfeits bond or bail after being charged with hunting or killing over the limit of:

(a) mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(b) deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(3) A person convicted of unlawful taking of more than double the legal bag limit as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 43. Failure to wear hunter orange while big game hunting.** (1) Except as provided in subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

(2) As used in this section, "hunter orange" means a daylight fluorescent orange color.

(3) This section does not apply to a person hunting with a bow and arrow during the special archery season.

(4) The department shall make rules to implement this section.

(5) A person convicted of a violation of this section shall be punished by a fine of not less than $10 or more than $20.

NEW SECTION. **Section 44. Failure to obtain landowner's permission for hunting.** (1) A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take nongame wildlife or predatory animals or hunting on private property.

(2) Except as provided in subsection (3), a person who violates this section shall, upon conviction for a first offense, be fined an amount not to exceed $25.

(3) A person convicted of a violation of this section for hunting a big game animal on private property without obtaining permission of the landowner shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 45. Fishing offenses.** (1) Except when specifically authorized by law or by commission rule, a person may not:

(a) fish by any means other than by hook and single line or single rod, in hand or within immediate control. This does not prevent:

(i) fishing from a boat or the shore on a lake or reservoir by hook and two lines or two rods, in hand or within immediate control, in accordance with rules that the commission adopts;

(ii) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;

(iii) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow under rules and regulations that the commission adopts;

(iv) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (1)(a);

(v) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;

(vi) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under the rules and regulations that the commission adopts;

(vii) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or

(viii) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March under rules and regulations that the commission adopts.

(b) unlawfully use any fishing rod and line, fishing lines, spear, gig, or barbed fork;

(c) take or catch fish using fishtraps, grabhooks, spears, gigs, or other similar means for catching fish;

(d) use any gun or trap or other device to entrap, catch, capture, or take or to attempt to entrap, catch, capture, or take any game fish;

(e) have in the person's possession or under the person's control a seine, net, or other similar device

for capturing fish. A seine or net found in a vehicle, at the camp, or on the premises of a person is prima facie evidence that the seine, net, or similar device belongs to the person or persons occupying the camp or premises. This subsection (1)(e) does not apply to:

(i) a license holder for a private fish pond who is licensed to sell fish and eggs under 87-4-603;

(ii) a person with an unexpired seine or net license;

(iii) the use, by any person, of a landing net in connection with or in addition to a pole, line, and hooks in fishing for game fish; or

(iv) the possession of traps, seines, or nets when found in the vicinity of any waters in which the commission has designated that traps, seines, or nets may be used for the taking of nongame fish or game fish.

(f) take or catch fish with a hook baited with any poisonous substance or using any poisonous substance, including fish berries;

(g) use archery equipment prohibited by rule of the commission to fish; or

(h) use any carbide, lime, giant powder, dynamite, or other explosive compounds or any corrosive or narcotic poison or other deleterious substance or have any of the enumerated items in the person's possession within 100 feet of any stream where fish are found for the purpose of catching, stunning, or killing fish. This subsection (1)(h) does not apply to anyone authorized by the department to conduct lake or stream surveys or to control undesirable or overpopulated species of fish.

(2) The possession of a fishing rod and line, spear, gig, or barbed fork on the banks or shores of a stream or lake is prima facie evidence that the person or persons in whose possession these implements are found were using the implements to fish.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 46. Trapping and snaring offenses.** (1) A person may not use a snare trap for the purpose of snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and telephone number;

(b) the consent of the landowner has been obtained for a set on private property; and

(c) the snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3) A holder of a Class C-2 trapper's license may not trap or snare predatory animals or nongame wildlife on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 47. Trapping during closed season.** (1) A person may not trap or hunt or attempt to trap or hunt any fur-bearing animal until the commission provides an open season on any fur-bearing

animal. The furs and hides of fur-bearing animals legally taken during the open season may be possessed, bought, and sold at any time except as provided by law.

(2) When it is shown that muskrats or beaver are causing severe injury to or are a menace to the structures, canal banks, or other works of an irrigation project or district or to a stock water pond, any employee or resident landowner on the project or district may kill or trap or cause to be killed or trapped any muskrat or beaver upon or in menacing proximity to the structures, canal banks, or other works of the project or district or the stock water pond during the closed season on muskrats or beaver after having secured from the director a permit to do so, except that from June 1 to August 31 of each year, a permit is not required.

(3) A person convicted of a violation of this section shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 48. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping

license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 49. Failure to report or tattoo.** (1) Any bear, wolf, tiger, mountain lion, or coyote that is captured alive to be released later or that is held in captivity for any purpose must be reported to the department within 3 days of the capture or commencement of captivity.

(2) Each animal reported as required in subsection (1) must be permanently tattooed or otherwise permanently identified in a manner that will provide positive individual identification of the animal. No tattoo is required if the animal is subject to a permanent, individual identification process by another state or federal agency.

(3) Any person holding a bear, wolf, tiger, mountain lion, or coyote in captivity shall immediately report to the department any death, escape, release, transfer of custody, or other disposition of the animal.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 50. Outfitting without a license.** (1) (a) A person may not purposely or knowingly engage in outfitting while not licensed pursuant to Title 37, chapter 47, or purposely or knowingly violate a licensing rule adopted under Title 37, chapter 47.

(b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than $200 or more than $1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(2) (a) A person or entity that represents to any other person, any entity, or the public that the person or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued in excess of $5,000 is punishable by a fine of not more than $50,000 or imprisonment in the

state prison for up to 5 years, or both.

(b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b) shall consider and may impose any of the following conditions during the period of revocation:

(a) prohibiting the offender from:

(i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant;

(ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally or through an agent or representative;

(iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

(iv) purchasing or possessing any hunting, fishing, or trapping permits; and

(b) imposing any other reasonable condition or restriction that is related to the crime committed or that is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this state.

(4) A person convicted of a violation of this section shall reimburse the full amount of any fees received to the person to whom illegal outfitting services were provided.

(5) As used in this section, the following definitions apply:

(a) "Consideration" means remuneration given in exchange for outfitting services supplied based on a business relationship between parties, but not including reimbursement for shared trip expenses.

(b) (i) "Outfitting" means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide or professional guide in accompanying that person.

(ii) The term does not include the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests.

NEW SECTION. **Section 51. Taxidermist offenses.** (1) A person convicted of a violation of 87-4-201 related to the licensing and recordkeeping of taxidermists shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) In addition to the penalties in subsection (1), the taxidermist's license of the person convicted may be revoked by the court.

NEW SECTION. **Section 52. Fur dealer offenses.** A person convicted of a violation of 87-4-302 or 87-4-303 related to the licensing and recordkeeping of a fur dealer shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 53. Alternative livestock ranch offenses.** (1) A person may not purposely or knowingly violate any provision of or rule adopted pursuant to Title 87, chapter 4, part 4, pertaining to the licensure or operation of an alternative livestock ranch.

(2) In addition to license revocation or other penalties allowed by 87-4-427, a person who purposely or knowingly violates this section shall be fined not more than $1,000 or be imprisoned in the county jail for not more than 1 year, or both.

(3) Any violation of [section 12] regarding the sale of an animal in connection with an alternative livestock ranch is subject to prosecution and penalties under that section.

NEW SECTION. **Section 54. Shooting preserve offenses.** (1) A person may not:

(a) hunt on a shooting preserve without obtaining a license pursuant to 87-4-504; or

(b) harvest game on a shooting preserve without tagging the game pursuant to 87-4-525.

(2) Each shooting preserve operator shall keep records in accordance with 87-4-526.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000

or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 55. Unlawful sale of fish or spawn.** (1) Except as provided in 87-4-601 and subsections (2) and (3) of this section, a person may not, for speculative purposes, for market, or for sale, catch game fish or remove or cause to be removed the eggs or spawn of any game fish in any way. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.

(2) The restrictions of subsection (1) do not apply to the:

(a) catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;

(b) taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond licensed under 87-4-603;

(c) catching of whitefish by the holder of a valid fishing license fishing with hook and line or a rod in specified waters designated by rules of the commission;

(d) taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under rules of the commission; or

(e) sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.

(3) A person may possess and sell legally taken nongame fish as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 56. Unlawful taking of fish or aquatic organism.** (1) A person may not take

fish or aquatic organisms for commercial purposes without obtaining a permit from the department pursuant to 87-4-609.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 57. Unlawful taking of crayfish.** (1) A person may not take crayfish from the waters of the state, except from private fish ponds regulated under 87-4-603 or as provided in subsection (2) of this section, for sale or commercial distribution.

(2) A person may take crayfish from the waters of the state for sale or commercial distribution as fishing bait under rules adopted by the department under 87-4-609.

(3) A person convicted of a violation of this section may be fined not less than $50 or more than $500 or may be imprisoned in the county jail for not more than 6 months, or both.

NEW SECTION. **Section 58. Menagerie and zoo offenses.** (1) A person may not:

(a) operate a roadside menagerie or wild animal menagerie without a permit obtained pursuant to 87-4-803;

(b) subscribe to any false statement in an application for a permit; or

(c) obtain wild animals for a roadside menagerie, wild animal menagerie, or zoo by capture from the wild or by purchase except in accordance with 87-4-804.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 59. Owning, controlling, or propagating game birds without license.** A person who owns, controls, or propagates game birds in violation of Title 87, chapter 4, part 9, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 60. Owning, controlling, or propagating furbearers without license.** A person who owns, controls, or propagates furbearers in violation of 87-4-1002 shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 61. Unlawful acquisition of furbearer.** (1) A person may not capture, take, or otherwise acquire a furbearer from the wild for use on a fur farm.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 62. Wild bird, raptor, and falcon offenses.** (1) A person who violates any provision of Title 87, chapter 5, part 2, pertaining to the regulation of wild birds, raptors, and falconry, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 63. Second offense penalties.** (1) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license;

(d) unlawful taking of more than double the legal bag limit;

(e) unlawful possession of more than double the legal bag limit; and

(f) waste of game by abandonment in the field.

(2) A person convicted of the offenses in subsection (1) in the time periods specified in subsection (1) shall be fined not less than $2,000 or more than $5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture unless the court imposes a longer period.

NEW SECTION. **Section 64. Third offense penalties.** (1) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license; and

(d) unlawful taking of more than double the legal bag limit.

(2) A person convicted of the offenses in subsection (1) in the time period specified in subsection (1) shall be fined not less than $5,000 or more than $10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for life.

NEW SECTION. **Section 65. Additional penalty for use of artificial light or scope.** (1) If a person is convicted of illegally taking an animal described in [section 68 or 69] through the use of projected artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(2) A person convicted of taking an animal while using projected artificial light as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

NEW SECTION. **Section 66. Different penalty for unlawful attempt to hunt or trap.** A person convicted of unlawfully attempting to hunt or trap a game animal shall be fined not less than $200 or more than $600 or be imprisoned in the county detention center for not more than 60 days, or both.

NEW SECTION. **Section 67. Finding required for restitution.** Before restitution may be ordered pursuant to [section 68 or 69], the finder of fact at trial or the court upon entry of a guilty or nolo contendere plea shall find that the illegal killing or possession was done knowingly or purposely as defined in 45-2-101. This finding is not required for state reimbursement under [section 68] when bond or bail is forfeited.

NEW SECTION. **Section 68. Restitution for illegal killing or possession of certain wildlife.** (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.

NEW SECTION. **Section 69. Restitution for illegal killing or possession of trophy wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, or possessing a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.

NEW SECTION. **Section 70. Payment -- penalty for nonpayment of restitution.** (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 68 or 69].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

NEW SECTION. **Section 71. Disposition of proceeds from restitution.** All money collected by a court pursuant to [sections 67 through 70] must be remitted to the department of revenue for deposit in the state special revenue fund account to the credit of the department for hunter education purposes or for enforcement.

NEW SECTION. **Section 72. Remedial hunter education program -- sentencing.** (1) The court may sentence a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges or who is convicted of a hunting violation to complete a remedial hunter education course.

(2) A person who is sentenced by the court to complete a remedial hunter education course shall successfully complete the course before any license privileges may be restored.

(3) The department may not issue a hunting, fishing, or trapping license to a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges until the person has successfully completed the remedial hunter education course.

(4) If the person who is sentenced by the court to complete the remedial hunter education course is not a resident of the state of Montana, the sentencing court shall require the person to complete a similar remedial hunter education course in the person's state of residence. If a similar course does not exist in the person's state of residence, the person shall complete Montana's course before any Montana hunting, fishing, or trapping license may be issued.

(5) This section does not allow the issuance of any licenses to a person whose hunting or fishing privileges have been revoked for life.

NEW SECTION. **Section 73. Costs of imprisonment.** Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to [sections 1 through 80] to pay the costs of imprisonment under [sections 1 through 80].

NEW SECTION. **Section 74. Privileges of juveniles.** A mandatory forfeiture of privileges imposed pursuant to [sections 1 through 80] does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's current hunting, fishing, or trapping licenses issued by this state and the juvenile's privilege to hunt, fish, or trap in this state upon conviction or forfeiture of bond or bail for a violation of this title.

NEW SECTION. **Section 75. Restriction on special application or entry when ordered to pay restitution.** A person convicted or who has forfeited bond or bail under this title and who has been ordered to pay restitution under the provisions of [section 68 or 69] may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date

of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a mountain sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period.

NEW SECTION. **Section 76. Suspension of privileges for failure to comply with citation, sentence, or administrative suspension.** (1) A person who fails to comply with the terms of a court citation or the terms of an administrative suspension or who fails to fulfill the obligations of any court-imposed sentence for a wildlife violation under this title, resulting in the issuance of a warrant for the person's arrest, shall forfeit any current hunting, fishing, or trapping license issued by this state to the department, and the person's privilege to hunt, fish, or trap in this state is suspended until the terms of the court citation or sentence are satisfied.

(2) A person who loses the person's privileges under this section must be notified by the department or by the administrative authority in person or by mail.

NEW SECTION. **Section 77. Forfeiture of license or permit for littering.** A holder of a Montana resident or nonresident fishing or hunting license or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, camp, or trap in this state for a period of 1 year from the date of conviction.

NEW SECTION. **Section 78. Revocation of exception.** If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by 87-2-801 through 87-2-803 must be revoked for not less than 6 months.

NEW SECTION. **Section 79. Notification of loss of privileges -- reinstatement and revocation.** (1) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) After a forfeiture period imposed pursuant to [sections 1 through 80] and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment

of any fine, costs, or restitution, have been met or that the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

NEW SECTION. **Section 80. Suspension by administrative authority -- notice and surrender of license or permit.** If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

NEW SECTION. **Section 81. Penalties.** A person who violates this part is subject to the penalties provided in [section 54].

Section 82. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of $1,500, injures or kills a commonly domesticated hoofed

animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks ~~is subject to an additional penalty as provided in 87-1-102(2)(e)~~ shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture."

Section 83. Section 45-6-203, MCA, is amended to read:

"45-6-203. Criminal trespass to property. (1) Except as provided in 15-7-139, 70-16-111, and 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping ~~is subject to an additional penalty as provided in 87-1-102(2)(f)~~ may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture."

Section 84. Section 81-2-121, MCA, is amended to read:

"81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if the landowner or agent:

(a) ~~the landowner or agent~~ notifies or makes a good faith effort to notify the department in order to allow

as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) ~~the landowner or agent~~ makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) ~~the landowner or agent~~ is not in violation of subsection (2)(a).

(2) (a) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection ~~is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1)~~ (2)(a) shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) This subsection (2) does not apply to supplemental feeding activities conducted by the department for disease control purposes."

Section 85. Section 87-1-120, MCA, is amended to read:

"87-1-120. Remedial hunter education program. (1) The department shall develop a remedial hunter education program for hunting law violators.

(2) The program must be funded through money collected by a court pursuant to ~~87-1-111 through 87-1-113~~ [sections 67 through 70].

(3) The department shall determine the qualifications for instructors, hire the instructors, and pay the instructors at a rate determined by the department.

(4) A person who is sentenced by the court to complete a remedial hunter education course shall pay the costs directly attributable to the person's participation in the remedial hunter education program.

(5) The course instructor shall notify the sentencing court of the participant's attendance record and of the participant's success or failure in completing the program.

(6) A participant whose hunting, fishing, or trapping license has been revoked shall successfully complete the program before license privileges may be reinstated."

Section 86. Section 87-1-232, MCA, is amended to read:

"87-1-232. Tattoo records. (1) The department shall maintain a record of each animal reported to it pursuant to ~~87-1-231~~ [section 49]. The record shall indicate:

(a) the person by whom the animal was captured or is held in captivity;

(b) the location of the capture or captivity;

(c) the date the animal was tattooed;

(d) the purpose of the captivity or capture; and

(e) any death, escape, release, transfer of custody, or other disposition of ~~such~~ the animal.

(2) The department shall establish by rule a fee to be charged, which may not exceed the administrative cost of maintaining the record required by this section."

Section 87. Section 87-1-234, MCA, is amended to read:

"87-1-234. Exceptions to tattoo and compensation requirements. Sections ~~87-1-231 through~~ 87-1-232, 87-1-233, and [section 49] do not apply to those animals:

(1) captured and released as part of an ongoing game management program or an ongoing predator control program unless ~~such~~ the animals have been involved in livestock killing; or

(2) captured and released as part of a scientific, educational, or research program as certified by the department."

Section 88. Section 87-1-601, MCA, is amended to read:

"87-1-601. (Temporary) Use of fish and game money. (1) (a) Except as provided in subsections (7) and (9), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs.

87-1-601. (Effective March 1, 2011) Use of fish and game money. (1) (a) Except as provided in 87-1-290 and subsections (7) and (9) of this section, all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs."

Section 89. Section 87-1-803, MCA, is amended to read:

"**87-1-803. Reciprocal recognition of license suspensions -- suspension of privileges for conviction in participating state.** (1) When the department receives notice of the suspension of a person's hunting, trapping, or fishing privileges by a participating state, the department shall determine whether the violation leading to the suspension could have led to the forfeiture of privileges under Montana law. If the department determines that the person's privileges could have been forfeited, the department shall suspend the person's privileges to hunt, trap, or fish in Montana for the same period as imposed by the participating state or for the minimum period that would have been imposed under Montana law, whichever period is longer.

(2) When the department receives notice of a conviction of a Montana resident from the licensing authority of the issuing state, the department shall treat the conviction as if it had occurred in Montana and shall

determine whether the conviction could have led to the forfeiture of the resident's hunting, trapping, or fishing privileges under Montana law. If the department determines that the resident's privileges could have been forfeited, the department shall suspend the resident's privileges to hunt, trap, or fish in Montana for the minimum period that would have been imposed under Montana law.

(3) Notice of the suspension must be sent to the person, who shall surrender any current Montana hunting, trapping, and fishing licenses to the department within 10 days.

~~(4) A person whose privileges have been suspended and who hunts, traps, or fishes in Montana, who applies for or purchases any licenses or permits to hunt, trap, or fish in Montana, or who refuses to surrender any current hunting, trapping, and fishing licenses as required is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 90. Section 87-1-804, MCA, is amended to read:

"87-1-804. Suspension of privileges for failure to comply with citation issued in participating state. (1) The department shall suspend the hunting, trapping, or fishing privileges of any resident of Montana upon notification from the licensing authority of an issuing state that the resident has failed to comply with the terms of a citation issued for a wildlife violation. The suspension remains in effect until the department receives satisfactory evidence of compliance from the issuing state.

(2) Notice of the suspension must be sent to the resident, who shall surrender all current Montana hunting, trapping, and fishing licenses to the department within 10 days.

~~(3) A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 91. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in ~~87-1-102,~~ chapter 3~~,~~ and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

~~(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.~~

~~(4) "Commission" means the state fish, wildlife, and parks commission.~~

~~(5)~~(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

~~(6)~~(4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(7)~~(5) "Game fish" means all species of the family ~~salmonidae~~ Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus ~~stizostedion~~ Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus ~~esox~~ Esox (northern pike, pickerel, and muskellunge); all species of the genus ~~micropterus~~ Micropterus (bass); all species of the genus ~~polyodon~~ Polyodon (paddlefish); all species of the family ~~acipenseridae~~ Acipenseridae (sturgeon); all species of the genus ~~lota~~ Lota (burbot or ling); the species ~~perca~~ Perca flavescens (yellow perch); all species of the genus ~~pomoxis~~ Pomoxis (crappie); and the species ~~ictalurus~~ Ictalurus punctatus (channel catfish).

~~(8)~~(6) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

~~(9)~~(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; ~~wilson's~~ Wilson's snipes or jacksnipes; and mourning doves.

~~(10)~~(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

~~(11)~~(9) "Open season" means the time during which game birds, fish, and game and fur-bearing animals

may be lawfully taken.

~~(12)~~(10) "Person" means individuals, associations, partnerships, and corporations.

~~(13)~~(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

~~(14)~~(12) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(15)~~(13) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(16)~~(14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 92. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses, permits, or tags allowed -- fees. ~~(1) It is unlawful for a person to apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under subsection (4) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses, permits, or tags than are authorized.~~

~~(2) It is unlawful for the holder of a replacement license, permit, or tag to make the replacement license, permit, or tag available for use by another person.~~

~~(3)~~(1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed $5.

~~(4)~~(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant.

~~(5)~~(3) For all of the game management licenses issued under subsection ~~(4)~~ (2), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number

of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(6)~~(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take an antlerless elk. Unless otherwise reduced pursuant to subsection ~~(7)~~ (5), the fee for a Class B-12 license is $273. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(7)~~(5) The fee for a resident or nonresident license of any class issued under subsection ~~(4)~~ (2) or ~~(6)~~ (4) may be reduced annually by the department."

Section 93. Section 87-2-106, MCA, is amended to read:

"87-2-106. Application for license ~~-- penalties for violation -- forfeiture of privileges~~. (1) A license may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. ~~It is a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure.~~ Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the officer or agent issuing the license.

(2) Except as provided in subsection (3), department employees or officers may issue licenses by telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before the employee or officer.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee.

~~(6) It is unlawful to subscribe to or make any statement, on an application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.~~

~~(7)~~(6) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any license until all terms of the court sentence in which the privilege was revoked, including making restitution, have been met or the person is in compliance with installment payments specified by the court and the department has received notification from the sentencing court to that effect pursuant to ~~87-1-102(1)~~ [section 79(2)].

~~(8) It is unlawful for a nonresident to apply for or purchase for a nonresident's use the following resident licenses and permits:~~

~~(a) wildlife conservation license;~~

~~(b) hunting license or permit; or~~

~~(c) fishing license or permit.~~

~~(9) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a resident license in violation of subsection (8) shall be:~~

~~(i) fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000;~~

~~(ii) imprisoned in the county jail for not more than 6 months; or~~

~~(iii) both fined and imprisoned.~~

~~(b) In addition to the penalties specified in subsection (9)(a), upon conviction or forfeiture of bond or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish, and trap in Montana for not less than 18 months.~~

~~(10) It is a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in obtaining a resident license in violation of this section.~~

[~~(11)~~(7) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

~~(12)~~(8) The department shall delete an applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

Section 94. Section 87-2-202, MCA, is amended to read:

"87-2-202. (Temporary) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses

the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

87-2-202. (Effective March 1, 2011) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

Section 95. Section 87-2-411, MCA, is amended to read:

"87-2-411. ~~License required to hunt migratory~~ Migratory game ~~birds~~ bird licenses -- fees --

disposition of proceeds. (1) ~~A person 16 years of age or older may not hunt migratory game birds without first having obtained a valid migratory bird license from the department.~~ The fee for a resident to purchase the migratory game bird license is $6.50. The fee for a nonresident to purchase the migratory game bird license is $50.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended only for the protection, conservation, and development of wetlands in Montana."

Section 96. Section 87-2-521, MCA, is amended to read:

"87-2-521. Class D-3--resident hound training license. A person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of $5, may receive a Class D-3 hound training license that entitles the holder to use a dog or dogs to aid in pursuing mountain lions or bobcats during the training season established in ~~87-3-124(3)(c)~~ [section 36(4)]."

Section 97. Section 87-2-807, MCA, is amended to read:

"87-2-807. Taking migratory game birds for propagation -- avicultural permit. (1) The department may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in 87-2-101~~(9)~~, for the purpose of propagation. Before issuing an avicultural permit, the department shall determine that the applicant has been issued the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

(2) An avicultural permit issued under this section must specify:

(a) the species of migratory game birds allowed to be taken under the permit;

(b) whether eggs or hatched birds, or both, may be taken;

(c) the number of eggs or hatched birds, or both, that may be taken;

(d) areas in which collection may be made;

(e) means by which collection may be made;

(f) the time period for which the permit is valid; and

(g) any other conditions imposed by the department under rules adopted pursuant to subsection (5).

(3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in accordance

with this section remain the property of the state and may be disposed of only with the permission of the department. Progeny of hatched migratory game birds taken under permit as provided in this section become the private property of the holder of the permit who propagates the migratory game birds, and the owner may sell or transfer the birds as private property, subject to any applicable state or federal law or regulation.

(4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed the cost of issuing the permit.

(5) The department shall adopt rules implementing this section."

Section 98. Section 87-3-110, MCA, is amended to read:

"87-3-110. ~~Registration for sale of~~ Regulation of certain grizzly bears and grizzly bear parts. (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount ~~thereof~~ of a lawfully killed grizzly bear may sell it if it has been registered with the department in the manner and upon forms provided by the department. The registration form must specifically describe the grizzly bear or the hide, head, or mount thereof and must accompany it upon any sale.

(2) Bears or parts ~~thereof~~ of bears may be registered as follows:

(a) Before January 1, 1986, any lawfully killed grizzly bear or part ~~thereof~~ of the bear may be registered.

(b) On or after January 1, 1986, bears lawfully killed in Montana may be registered within 10 days after the date of kill, and bears lawfully killed outside Montana may be registered within 3 months after the date of kill upon presentation of proof of lawful kill.

(3) Registration under this section does not legalize any prior illegal act, such as the unlawful killing or theft of a grizzly bear or part ~~thereof~~ of the bear.

(4) A person who is responsible for the death of a grizzly bear shall deliver all parts of the grizzly bear required by department or commission regulation for scientific purposes to an officer or employee of the department for inspection as soon as possible after removal, and the department shall return to the person any bone structure and skull within 1 year upon written request. The hide must be returned immediately."

Section 99. Section 87-3-121, MCA, is amended to read:

"87-3-121. ~~Conditions for award of prizes~~ Regulation of contests. ~~(1) It shall be unlawful for any person, firm, corporation, association, or club to offer or give any prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, fur-bearing~~

~~animals, or any bird or animal now or that shall be hereafter protected in any way by the fish and game laws of the state of Montana.~~

~~(2)~~ The commission shall adopt rules to regulate contests, in accordance with provisions of [section 15], by a person, firm, ~~corporation, association,~~ or club that intends to offer or give a prize, gift, or anything of value in connection with or as a prize for the taking, capturing, killing, or in any manner acquiring fish that are protected under Title 87. The commission's rules must be based on the commission's duty under Title 87 to protect, preserve, and propagate fish in the state.

~~(3) This section shall not be construed to prohibit the award of prizes for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.~~"

Section 100. Section 87-3-126, MCA, is amended to read:

"**87-3-126. ~~Restrictions on use~~ Use of aircraft or ~~boats~~ helicopter -- ~~exception --~~ authority to issue permits and adopt rules.** ~~(1) (a) A game bird or game or fur-bearing animal may not be killed, taken, or shot at from any aircraft, including helicopters.~~

~~(b) An aircraft or helicopter may not be used for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game or migratory birds or game or fur-bearing animals.~~

~~(c) A powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail may not be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game birds or game or fur-bearing animals.~~

~~(2) It is unlawful for any person airborne in any aircraft, including a helicopter, to spot or locate any game or fur-bearing animals and communicate the location of the game or fur-bearing animals to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.~~

~~(3) Within the boundaries of a national forest, except as permitted by the department, it is unlawful to use aircraft, including helicopters, for hunting purposes, except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:~~

~~(a) during emergency situations;~~

~~(b) when search and rescue operations are being conducted; or~~

~~(c) for predator control as permitted by the department of livestock.~~

~~(4)~~ An aircraft or helicopter may be used for the purpose of herding, driving, or hazing wild animals damaging private property or crops on the property in question pursuant to a permit issued by the department. The commission shall adopt rules for the issuance of the permit. The permit may be conditioned to address individual circumstances of each application for a permit. The department may not issue permits during any legal hunting season for the species for which a permit was requested. The permitting program must comply with requirements of federal law for ~~such~~ the activity."

Section 101. Section 87-3-204, MCA, is amended to read:

"87-3-204. ~~Restrictions on fishing methods -- allowed fishing methods~~ Designation of state waters for particular fishing methods. ~~(1) A game fish may not be caught, captured, or taken or attempted to be caught, captured, or taken by the aid or with the use of any gun or trap, nor may any gun, trap, or other device to entrap game fish be used, made, or set.~~

~~(2) Except when specifically authorized by law or commission rule, a person may not:~~

~~(a) take or catch fish in any of the waters of this state, except with hook and line held in hand or line and hook attached to rod or pole held in hand or within immediate control;~~

~~(b) take or catch fish with hook baited with any poisonous substance or using any poisonous substance, including fish berries; or~~

~~(c) take or catch fish using fishtraps, grabhooks, seines, nets, spears, gigs, or other similar means for catching fish.~~

~~(3)~~(1) (a) The commission may designate waters within the state in which rubber or spring-propelled spears employed by persons swimming or submerged in the water or traps, seines, nets, spears, or gigs may be used for taking:

(i) nongame fish; or

(ii) walleyed pike, sauger, northern pike, burbot (ling), and whitefish.

(b) The commission may adopt rules for the taking of fish under this subsection ~~(3)~~ (1), and the rules may be specific to the water designated. The designated waters may be closed at the discretion of the commission.

(c) Except when the taking of game fish is authorized pursuant to subsection ~~(3)(a)(ii)~~ (1)(a)(ii), all game fish captured while fishing as authorized under this subsection ~~(3)~~ (1) must be returned uninjured to the waters

from which they were taken.

~~(4)~~(2) The commission may designate certain waters where setlines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines that may be used as setlines.

~~(5) Game fish must be taken only by hook and single line or single rod in hand or within immediate control. This does not prevent, however:~~

~~(a) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;~~

~~(b) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow, under rules and regulations that the commission prescribes;~~

~~(c) the taking of game fish pursuant to subsection (3);~~

~~(d) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (5);~~

~~(e) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;~~

~~(f) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under the rules and regulations that the commission prescribes;~~

~~(g) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or~~

~~(h) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March, under rules and regulations prescribed by the commission.~~

~~(6)~~(3) The commission may designate waters where authorized commercial fishing operators may use approved nets, seines, and traps to fish for designated species of nongame fish."

Section 102. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless the importations are shipped direct from the source to destination and a written certification that the source is free of all fish pathogens specified by the department as posing a threat to existing fisheries accompanies the

shipment. Certification must be made by a fish pathologist approved by the director. Certification of the source may be by inspection conducted annually or at other times that the director may order.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importations do not present a substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. Import permits apply to all importations from specified and certified species and sources by a permittee until January 31 of the year succeeding the year of issuance, when the permit expires. However, a separate permit is required for importations by a permittee for species or from sources unspecified in the permittee's other permit or permits. ~~It is unlawful to import live salmonid fish or eggs into Montana without first obtaining the permit required by this subsection or to violate any conditions of the permit.~~"

Section 103. Section 87-3-222, MCA, is amended to read:

"**87-3-222. When certification unnecessary.** (1) Nothing in 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)] may restrict the importation and transportation of dead salmonid fish or eggs when the fish or eggs have been processed or prepared in a manner that kills those fish pathogens specified by the department as posing a threat to fisheries.

(2) Dead salmonid fish or eggs transported into Montana for processing or caught wild are exempt from the requirement for certification. However, it is unlawful to discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems."

Section 104. Section 87-3-224, MCA, is amended to read:

"**87-3-224. Enforcement.** The cargo and vehicle involved in a violation of ~~87-3-209~~ [section 20(1)(b)] and 87-3-210 or 87-3-221 through 87-3-223 may, at the option of the department, either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department. The department shall inform the department of transportation of the provisions regarding importation of salmonid and nonsalmonid fish and eggs so that the department of transportation may enforce the provisions at ports of entry and checking stations under 60-2-303."

Section 105. Section 87-3-403, MCA, is amended to read:

"87-3-403. Migratory game birds -- closed season and bag limits. Laws relating to migratory birds are prescribed by the regulations of the United States department of interior and the fish and wildlife service. Open season, bag limit, and other rules and regulations are announced each year by proclamation by the president of the United States. After each proclamation, the department by proper action will adopt, advertise, and enforce ~~such~~ any proclaimed regulations as may be applicable to the state of Montana. ~~Any~~ A person ~~or persons violating any provisions~~ who violates a provision of this section ~~shall be guilty of a misdemeanor and on conviction thereof shall be punished as provided by law~~ is subject to the provisions of [section 39]."

Section 106. Section 87-4-201, MCA, is amended to read:

"87-4-201. Regulation of taxidermists. (1) As used in this section, "taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(2) Before conducting the business of a taxidermist, a taxidermist shall obtain from the department a taxidermist's license and pay an annual license fee of $50.

(3) A taxidermist shall keep a written record of all the articles of wildlife in the taxidermist's possession or control, including the following information:

(a) the kind and number of each article of wildlife;

(b) the name and residence of the owner of the article of wildlife; and

(c) all the articles of wildlife shipped and to whom and where shipped.

(4) The taxidermist shall keep the written record required under subsection (3) for as long as the articles of wildlife remain in the possession of the taxidermist or at least 5 years, whichever is longer. These records must be open to inspection by a warden at any reasonable time.

~~(5) Upon conviction for a violation of this section, the taxidermist's license of the person convicted may be revoked by the court.~~

(5) A person who violates this section is subject to the penalties provided in [section 51]."

Section 107. Section 87-4-306, MCA, is amended to read:

"87-4-306. Violations. ~~No~~ A person, firm, company, or corporation may not violate any of the provisions of this part. A person convicted of a violation is subject to the penalties provided in [section 52]."

Section 108. Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- moratorium -- penalty -- seizure of illegally possessed animals. (1) A person may not operate an alternative livestock ranch in this state without having first obtained an alternative livestock ranch license from the department prior to November 7, 2000. A person may not apply for or be granted a license after that date.

(2) A person who operates an alternative livestock ranch without a license or possesses, transports, buys, or sells animals whose importation into the state is restricted pursuant to 87-4-424 is ~~guilty of a misdemeanor and is~~ subject to the penalties provided in ~~87-4-427(4)~~ [section 53].

(3) Any animal held in violation of subsection (2) or otherwise illegally possessed may be immediately seized by the department and is subject to disposal by the department. Costs of seizure may be charged to the person in possession of the animal."

Section 109. Section 87-4-427, MCA, is amended to read:

"87-4-427. Revocation of license -- criteria -- penalties. (1) The department may revoke any alternative livestock ranch license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate an alternative livestock ranch according to the provisions of this part, rules adopted under this part, or stipulations of the alternative livestock ranch license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of $100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the alternative livestock ranch operation, including but not limited to the unauthorized egress and ingress of game animal species or alternative livestock that:

(i) threatens public safety;

(ii) endangers native game animal populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the alternative livestock of others;

(f) a material and willful falsification of any required alternative livestock ranch records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of an alternative livestock ranch;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other alternative livestock and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under 87-4-428, that an alternative livestock ranch licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the alternative livestock ranch license for up to 5 years;

(b) imposition of a civil penalty not to exceed $5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to ~~criminal prosecution and a fine of not more than $1,000, imprisonment in the county jail for not more than 1 year, or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section~~ the penalties provided in [section 53]."

Section 110. Section 87-4-601, MCA, is amended to read:

"87-4-601. Sale of fish or spawn ~~unlawful -- exceptions~~. ~~(1) Except as provided in subsections (2) through (4), a person may not, for speculative purposes, for market, or for sale, in any way, catch game fish or remove or cause to be removed the eggs or spawn of any game fish. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.~~

~~(2) The restrictions of subsection (1) do not apply to:~~

~~(a) the catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;~~

~~(b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish~~

~~hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond licensed under 87-4-603;~~

~~(c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules of the commission;~~

~~(d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules that the commission prescribes; or~~

~~(e) the sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.~~

~~(3)(a)~~(1) Until June 30, 2018, a person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the Yellowstone River between the burlington northern railroad bridge at Glendive to the North Dakota state line during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection ~~(3)(b)~~ (2) for processing and marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

~~(b)~~(2) The department shall develop rules for selecting one Montana nonprofit organization to accept paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules for the marketing and sale of caviar under this section.

~~(c)~~(3) The department may enter into an agreement with the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2) specifying times, sites, and other conditions under which paddlefish eggs may be collected. The agreement must require the organization to maintain records of revenue collected and related expenses incurred and to make the records available to the department and the legislative auditor upon request.

~~(d)(i)~~(4) (a) Thirty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing must be deposited in a state special revenue fund established for the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery, including fishing access, administration, improvements, habitat, and fisheries management, or to provide information to the public regarding fishing in eastern Montana, which could include the design and construction of interpretive displays.

~~(ii)~~(b) Seventy percent of the proceeds from the sale of paddlefish egg caviar products in excess of the

costs of collection, processing, and marketing must be paid to the nonprofit organization that processes and markets the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2), two area local government representatives, and two representatives of area anglers. The advisory committee shall solicit and review historical, cultural, recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission of its actions. Proceeds may be used as seed money for grants.

~~(4)~~(5) A person may possess and sell legally taken nongame fish, as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609."

Section 111. Section 87-4-609, MCA, is amended to read:

"87-4-609. Regulation of commercial taking of fish or aquatic organisms -- permit -- rulemaking authority. (1) The department shall regulate the taking, for sale or commercial distribution, of:

(a) crayfish for fishing bait;

(b) crayfish from private fish ponds regulated under 87-4-603;

(c) mysis shrimp;

(d) designated species of nongame fish in waters designated by the commission pursuant to 87-3-204;

(e) whitefish as authorized by statute; and

(f) other aquatic organisms.

(2) ~~It is unlawful for a person~~ In order to obtain a permit to take fish or aquatic organisms for ~~commercial purposes without obtaining a permit from the department. A permit~~ sale or commercial distribution, an applicant shall provide the department with sufficient details of the proposed operation ~~to take any fish or aquatic organism for sale or commercial distribution~~ to enable the department to evaluate any potential overharvest or conflict with existing fishing and recreational uses of the waters.

(3) The department may:

(a) deny a permit if it determines that there is substantial potential that the proposed operation may harm a fishery or conflict with existing recreational uses of the waters;

(b) condition a permit to restrict the method of taking, the location of the taking, and the quality and quantity of harvest to prevent overharvest or conflict with existing fishing and recreational uses of the waters; or

(c) require a permittee to submit harvest data to the department.

(4) A permit may be revoked for a violation of the conditions of the permit.

(5) The department may adopt rules for the regulation of commercial taking of fish or aquatic organisms, including but not limited to the setting of seasons, methods of taking, quantities of harvest, size limitations, and reporting requirements, to prevent overharvest or conflict with fishing and recreational uses of the waters."

Section 112. Section 87-4-803, MCA, is amended to read:

"**87-4-803. Permits.** (1) The department may grant permits for roadside menageries, wild animal menageries, and zoos. ~~It is unlawful for any person to operate a roadside menagerie or wild animal menagerie without a permit.~~ Application for a permit must be made to the director on a form prescribed by the director. The annual permit fee for five or less animals is $10. The annual permit fee for more than five animals is $25. Permits expire on December 31 but may be renewed upon payment of the annual fee and submission of a renewal application. This section does not apply to the United States, the state of Montana, or any county or city. A person who subscribes to any false statement in application for a permit is ~~guilty of a misdemeanor~~ subject to the provisions of [section 58] and may be denied a permit.

(2) (a) A permit application for a roadside menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications;

(v) a copy of all required federal permits for exhibition of wild animals; and

(vi) a copy of a liability insurance policy to cover bodily injury or property damage.

(b) A permit application for a wild animal menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications; and

(v) information demonstrating that the applicant is responsible.

(c) A permit application for a zoo must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a copy of the nonprofit corporation documents approved by the secretary of state's office;

(iv) a copy of the required federal permits for exhibition of wild animals; and

(v) if applicable, a copy of the American zoo and aquarium association accreditation program specific to the facility.

(3) Renewal applications for roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

(4) A permit may not be granted by the department until it has satisfactorily verified that the provisions for housing and caring for the animals and for protecting the public are proper and adequate and in accordance with the standards established by the department.

(5) A permit is not transferable to another person."

Section 113. Section 87-4-807, MCA, is amended to read:

"87-4-807. Enforcement and penalty. (1) The provisions of this part ~~shall~~ must be enforced by any warden or any other legally authorized officer. Any person violating the provisions of this part shall upon conviction be punished as provided in ~~87-1-102~~ [section 58], and at the discretion of the court, the permit and all rights and privileges inherent ~~therein~~ in the permit may be forfeited.

(2) Any animals being kept in violation of any section of this part may be confiscated or ordered disposed of at the discretion of the director. The permittee may appeal to the commission within 20 days of the date of the order to confiscate, and the commission shall hold a hearing on ~~such~~ an appeal. ~~, and the~~ The decision of the commission ~~shall be~~ is final."

Section 114. Section 87-4-903, MCA, is amended to read:

"87-4-903. Game bird farm license required. Except as provided in 87-4-902, a person may not own, control, or propagate game birds unless the person holds a current game bird farm license from the department. A person who violates this section is subject to the penalties provided in [section 59]."

Section 115. Section 87-4-915, MCA, is amended to read:

"87-4-915. Field trials -- permits. (1) As used in this section, "field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(2) ~~A person may not conduct a field trial unless the person has a permit under this section.~~ Applicants for a permit to conduct a field trial shall apply to the director upon a form furnished by the department for that purpose. The application must be signed and sworn to by the applicant, stating the applicant's name and address, the name and address of any national affiliate, the place for the field trial clearly defined, the date or dates of the proposed field trial, whether live birds are to be used, and any other information required by the director to determine the advisability of granting permission for the proposed field trial. The application must state that if a permit is granted, the applicant will carefully flush all wild game birds from fields used for the field trial each day before the field trial begins and will not permit dogs to run free in fields that have not been carefully flushed. The application must be presented to the director not less than 20 days prior to the date proposed for the field trial.

(3) The director may refuse any application that the director determines is not in the best interests of the protection, preservation, propagation, and conservation of game birds in this state. Any denial by the director of an application must state the reasons for denial and must be mailed to the applicant within 10 days of receipt of the application.

~~(4) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any of the terms of the permit.~~

~~(5)~~(4) All live game birds used in a field trial must be tagged before being planted or released and may be planted or released only in the presence of a representative of the department. If an untagged bird is shot during any field trial, the person to whom the permit was issued shall immediately replace it with a live bird.

~~(6)~~(5) (a) Dogs may be trained in open fields at any time without permission of the director only if:

(i) live game birds are not killed or captured during training; and

(ii) the training is more than 1 mile from any bird nesting or management area or game preserve.

(b) A person may train dogs with a method that will kill birds acquired from a game bird farm only after receiving a written permit from the department and only in compliance with the terms of the permit."

Section 116. Section 87-4-1002, MCA, is amended to read:

"87-4-1002. Fur farm license required -- applicability. (1) Except as provided in subsection (2), a person may not own, control, or propagate furbearers unless the person holds a current fur farm license from the department.

(2) This part does not apply to the ownership, control, or propagation of furbearers if the ownership, control, or propagation is not for the sale or conveyance of furbearers or parts of furbearers.

(3) A person who violates this section is subject to the penalties provided in [section 60]."

Section 117. Section 87-5-204, MCA, is amended to read:

"87-5-204. License and rules for falconry and raptors. (1) The commission shall adopt specific rules for the keeping of records and for the trapping, taking, possession by residents and nonresidents, selling or transfer of possession, or training of raptors used in the practice of falconry and may authorize the issuance of licenses to persons for the practice of falconry and set license qualifications and fees. Rules adopted under this section are intended to conform to standards and regulations adopted under federal law by being at least as restrictive. ~~Except as provided in 87-5-210, it is unlawful for any person to possess a raptor or to train a raptor in the practice of falconry without a license.~~

(2) Licensees must have in possession a valid falconer's license when engaged in the practice of falconry. In addition, falconers loosing raptors at game birds must have in possession a valid resident or nonresident upland game bird license or waterfowl stamp, as appropriate.

(3) Falconry licenses or permits are not transferable and may be revoked for due cause at any time by the department."

Section 118. Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the provisions on importation or introduction of wildlife contained in the following laws:

(1) Title 80;

(2) ~~87-3-207~~ [section 20(1)(a)] and 87-3-208;

(3) 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)], 87-3-210, and 87-3-225 through 87-3-227;

(4) 87-4-422;

(5) 87-5-112;

(6) 87-5-205;

(7) 87-5-302; or

(8) Title 81, chapter 2."

Section 119. Section 87-5-721, MCA, is amended to read:

"87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person ~~who violates a provision~~ convicted of a violation of this part ~~is guilty of a misdemeanor punishable as provided in 87-1-102, and~~ shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than $500 or more than $5,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend $500 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit ~~from the date of conviction or forfeiture~~ any current hunting, fishing, or trapping license issued ~~under this title~~ by this state and the privilege to hunt, fish, or trap in this state for not less than 24 months from the date of conviction or forfeiture. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for ~~the lifetime of that person~~ life.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within a time set by the department, not to exceed 6 months. The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife."

NEW SECTION. **Section 120. Repealer.** The following sections of the Montana Code Annotated are repealed:

1	87-1-102.	Penalties -- violation of state law.
2	87-1-108.	Suspension of privileges for failure to comply with citation or sentence.
3	87-1-109.	Fish and game violation as inchoate offense.
4	87-1-110.	Fish and wildlife code not to supersede criminal code -- statute of limitations.
5	87-1-111.	Restitution for illegal killing or possession of certain wildlife.
6	87-1-112.	Finding required.
7	87-1-113.	Payment -- penalty for nonpayment.
8	87-1-114.	Disposition of proceeds.
9	87-1-115.	Restitution for illegal killing or possession of trophy wildlife.
10	87-1-121.	Remedial hunter education program -- sentencing.
11	87-1-125.	Violation of orders or rules -- penalties.
12	87-1-208.	Inspection at checking station.
13	87-1-231.	Tattooing of bears, wolves, tigers, mountain lions, or coyotes -- when required -- penalty.
14	87-2-103.	License required.
15	87-2-109.	Carrying and exhibiting license and identification.
16	87-2-110.	Alteration, attachment, or transfer of license.
17	87-2-112.	Forfeiture of license or permit for littering.
18	87-2-114.	Misdemeanor and felony possession of hunting or fishing license or permit -- penalties.
19	87-2-120.	Lawful means of angling or fishing.
20	87-2-203.	Unlawful sales of licenses.
21	87-2-205.	False statement in license application.
22	87-2-509.	Tagging of carcasses of game animals.
23	87-2-604.	Permission of landowner required.
24	87-2-804.	Revocation of exception.
25	87-3-101.	General restrictions.
26	87-3-102.	Waste of fish or game.
27	87-3-103.	Limit on number of game animals hunted or killed.
28	87-3-104.	Unlawful to hunt or fish during closed season.
29	87-3-105.	Unlawful to import for introduction or to introduce or transplant wildlife.
30	87-3-107.	Use of snare lawful under certain conditions.

87-3-108.	Restrictions on use of reproduced sounds.
87-3-109.	Attempting to take simulated wildlife decoy -- penalty.
87-3-111.	Unlawful possession, shipping, or transportation of game fish, birds, game animals, or fur-bearing animals -- exceptions -- penalties.
87-3-112.	Possession and unlawful use of fishing implements.
87-3-116.	Outfitting without license -- penalties -- disposition of fines.
87-3-117.	Definitions of lawfully killed, captured, or taken and unlawfully killed, captured, or taken.
87-3-118.	Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty.
87-3-123.	Use of silencers or mufflers on firearms forbidden.
87-3-124.	Dogs -- restrictions on hunting -- penalty for chasing hooved game animals.
87-3-125.	Restrictions on use of motor vehicles while hunting.
87-3-130.	Taking of wildlife to protect persons or livestock.
87-3-134.	Restriction on use of electronic motion-tracking device while hunting.
87-3-135.	Restrictions on use of archery equipment.
87-3-141.	Definitions.
87-3-142.	Harassment prohibited.
87-3-143.	Penalty.
87-3-144.	Injunction.
87-3-205.	Unlawful to possess net or seine -- exceptions.
87-3-206.	Unlawful to use explosives or poisons in taking fish.
87-3-207.	Unlawful to place caged fish in public waters -- exception.
87-3-209.	Intrastate movement of diseased fish or eggs unlawful.
87-3-301.	Shotgun loads regulated by department.
87-3-302.	Colored garments required on big game hunters.
87-3-304.	Landowner's permission required for hunting -- penalty.
87-3-305.	Unlawful to hunt deer within city or town boundaries.
87-3-306.	Unlawful to destroy evidence of sex.
87-3-307.	Contests based on size of game animals unlawful.
87-3-401.	Restrictions on rifles for bird hunting.
87-3-402.	Unlawful to violate closed season on certain game birds.

87-3-404. Tagging of turkey.
87-3-405. Failure to tag turkey.
87-3-501. Open and closed season for fur-bearing animals -- exception.
87-3-503. Destruction of beaver and muskrat houses unlawful.
87-3-504. Metal tags required on traps.
87-3-505. Penalty.
87-3-506. Wasting of fur-bearing animals.
87-3-507. Unlawful to disturb traps or trapped animals belonging to another -- exception.
87-4-608. Unlawful taking of crayfish -- penalty.
87-4-1014. Unlawful capture.

NEW SECTION. **Section 121. Codification instruction.** (1) [Sections 1 through 80] are intended to be codified as an integral part of Title 87, and the provisions of Title 87 apply to [sections 1 through 80].

(2) [Section 81] is intended to be codified as an integral part of Title 87, chapter 4, part 5, and the provisions of Title 87, chapter 4, part 5, apply to [section 81].

NEW SECTION. **Section 122. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

MINUTES

MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: Chairman John Brenden, on January 13, 2011 at 3:00 PM, in Room 422 Capitol

ROLL CALL

Members Present:

Sen. John Brenden, Chairman (R)
Sen. Joe Balyeat, Vice Chairman (R)
Sen. Debby Barrett (R)
Sen. Tom Facey (D)
Sen. Steven Gallus (D)
Sen. Bradley Hamlett (D)
Sen. Greg Hinkle (R)
Sen. Larry Jent (D)
Sen. Jim Shockley (R)
Sen. Art Wittich (R)

Members Excused: None

Members Absent: None

Staff Present: Joe Kolman, Legislative Branch
Kevin McCue, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 124, 1/7/2011; SB 133, 1/10/2011; SB 160, 1/12/2011

Executive Action: SB 124, SB 112

HEARING ON SB 124

Opening Statement by Sponsor:

00:01:10 Sen. Rick Ripley (R), SD 9, opened the hearing on SB 124, Reorganize and recodify fish and game criminal statutes.

Proponents' Testimony:

00:04:29 John L. "Pete" Howard, Montana Magistrates Association (MMA)
EXHIBIT(fis10a01)
00:12:16 Barbara Harris, Assistant Attorney General
00:14:27 Larry Carver, Justice of Peace, MMA
00:15:38 Larry Epstein, Montana County Attorney's Association (MCAA)
00:16:44 Ben Lamb, Montana Wildlife Association (MWA)
00:17:42 Bob Lane, Chief Legal Counsel, Fish Wildlife and Parks (FWP)
EXHIBIT(fis10a02)

Opponents' Testimony:

None

Informational Testimony:

00:19:54 Doug Sternberg, retired from Legislative Services Division

Questions from Committee Members and Responses:

00:26:47 Sen. Balyeat
00:27:43 Bob Lane, FWP
00:28:57 Sen. Balyeat
00:29:07 Bob Lane
00:29:30 Sen. Barrett
00:30:13 Bob Lane
00:30:40 Sen. Hamlett
00:31:00 Sen. Ripley
00:31:54 Sen. Shockley
00:32:30 Sen. Balyeat
00:32:50 Joe Kolman
00:33:34 Sen. Hinkle
00:33:47 Sen. Ripley

Closing by Sponsor:

00:34:22 Sen. Ripley

HEARING ON SB 133

Opening Statement by Sponsor:

01:07:20 Sen. Debby Barrett (R), SD 36, opened the hearing on SB 133, Prohibit harassment of sportsmen who purchase hunting licenses.

Proponents' Testimony:

01:09:59 Jim Brown, self
EXHIBIT(fis10a04)
01:14:18 Ben Lamb, lobbyist for the Montana Wildlife Association (MWA)

Opponents' Testimony:

01:16:42 John Barrows, lobbyist for the Montana Newspaper Association (MNA)
01:22:30 Bob Lane, Chief Legal Counsel, Fish, Wildlife and Parks (FWP)
EXHIBIT(fis10a05)

Informational Testimony:

01:29:24 JD Cass, Proponent, Havre (spoke after opponents)

Questions from Committee Members and Responses:

01:31:26 Sen. Shockley
01:31:48 Bob Lane, FWP
01:34:27 Sen. Wittich
01:35:05 Bob Lane
01:41:30 Sen. Balyeat
01:43:22 Jim Brown
01:46:20 Sen. Facey
01:46:51 Joe Kolman
01:47:07 Sen. Facey
01:47:59 John Barrows, MNA
01:51:13 Sen. Shockley
01:52:13 Bob Lane

Closing by Sponsor:

01:54:29 Sen. Barrett

EXECUTIVE ACTION ON SB 124

01:58:20 **Motion/Vote:** Sen. Shockley moved that **SB 124 DO PASS**. Motion carried unanimously by voice vote. Sen. Gallus and Sen. Jent voted by proxy.

MONTANA STATE SENATE
ROLL CALL
FISH & GAME COMMITTEE

DATE: January 13, 2011

NAME	PRESENT	ABSENT/ EXCUSED
Vice Chair Balyeat	✓	
Senator Barrett	✓	
Chairman Brenden	✓	
Senator Facey	✓	
Senator Gallus	✓	
Senator Hamlett	✓	
Senator Hinkle	✓	
Senator Jent	✓	
Senator Shockley	✓	
Senator Wittich	✓	

10 Committee Members

AUTHORIZED
SENATE COMMITTEE PROXY

I, Senator Tom Facey, request to be excused from the

Fish and Game COMMITTEE

due to my other commitment. I desire to leave my proxy vote with:

Sen Hamilton Facey on Jent

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
~~SB 115~~	~~X~~	
~~Any Amendments~~	~~X~~	
~~SB 43~~	~~X~~	
~~Friendly Amend~~	~~X~~	
~~SB 99~~	~~A~~	
~~W/ Freedom of Any~~	~~A~~	
~~Amend~~		
~~SB 164~~	~~X~~	
SB 124	X	
SB 112 amend	X	
SB 112		X

BILL/AMENDMENT	AYE	NO

Sen. [signature] Date 1/13/11
(Signature)

AUTHORIZED
SENATE COMMITTEE PROXY

I request to be excused from Fish & Game committee because of other commitments. I desire to leave my proxy vote with:

Sen. Tom Facey

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
SB 124	✓	
SB 112 amend	✓	
SB 112		✓

BILL/AMENDMENT	AYE	NO

Sen. Larry Jacobs (Signature) Date 1/13/2011

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SENATE FISH AND GAME
EXHIBIT NO. 1
DATE 1/13/11
BILL NO. SB 124

SB 124

TESTIMONIAL OUTLINE
JOHN L. "PETE" HOWARD
JUSTICE OF THE PEACE - TETON COUNTY

January 13, 2011

- **HISTORICAL OVERVIEW - HJ RESOLUTION 16 [2007]**

  Sen. Ripley, then Rep. Ripley - Sponsor
  Preface or Preamble to SB 124

- **REVISION OF TITLE 87 STATUTES REQUESTED**

  By Howard on behalf of Montana Magazine Association

- **TITLE 87 (FWP) STATUTES THEN AND NOW:**

  Confusing
  Comingled
  Lacking definitions
  "Not user friendly"

- **COURT DEMOGRAPHICS**

  Courts of Limited Jurisdiction
  Justice Courts - 60 approximately (JPs)
  City
  Municipal
  Approximately 120 Total
  More Female Judges than Male
  Many (Non-Sportsmen, Hunt, Fish & Trap)

- **HOWARD**

  14 Years Sheriff ----------> 36 Years of
  22 Years JP ----------> Use/Familiarity

SD

- **COMPARISON**

Montana Criminal Code - Title 45
FWP Code - Title 87

- TITLE 45 - Definitions Section
Stated Offense/Stated Penalty

- TITLE 87 - Definitions

1. The following words are used **without being defined** in the title and I suspect refer to some of the same processes and results:
   a. "revocation" regarding various licenses, etc. = 19 statutes;
   b. "revoke" = 8 statutes;
   c. "suspend" = 6 statutes;
   d. "forfeit" = 7 statutes; and
   e. "forfeiture" = 13 statutes.

The word "suspension is in 7 statutes, including the Interstate Wildlife Violator Compact, which defines the word.

2. The following words are used **without being defined** in the Title:
   a. "wildlife" = 144 statutes (and the Title name);
   b. "wild animals" = 8 statutes;
   c. "game" = 160 statutes, usually associated with the terms "bird," "animal," or "fish" but not always; and
   d. "big game" = 6 statutes.

The words "game animals," "upland game birds," "migratory game birds," and "game fish" are currently defined in §87-2-101.

Non-existent or scattered

CODE - 5 Chapters
Begins with Criminal Penalties
6 Pages - Comingled with Administrative Statutes and others

"NOT USER FRIENDLY AT PRESENT"

- **TITLE 87 REVISION PROJECT**

No Substantive Changes – Revenue Neutral

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FWP DIRECTOR APPOINTED COMMITTEE
MULTI-DISCIPLINARY INTERESTS

JP's:	John L. "Pete" Howard Larry Carver
COUNTY ATTORNEY'S:	Mike Menahan Joe Coble Stephen Gannon
ATTY GEN's:	Barbara Harris
CODE COMMISSION:	Doug Sternberg Hope Stockwell
FWP:	Jim Kropp Jack Lynch

- **PROJECT PROPOSAL**

CREATE NEW CHAPTER
- Extract all existing criminal violations;
- Relocate criminal violations in new chapter; and
- Create "definitions" section/apply to all words/terms

NEW REVISION TO LOOK LIKE CRIMINAL CODES
- Stated Offense followed by applicable penalty

PASSAGE OF SB 124
-Would make Title 87 as it relates to criminal offenses "User Friendly"

John L. "Pete" Howard

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SENATE FISH AND GAME
EXHIBIT NO. 2
DATE 1/13/11
BILL NO. SB 124

Senate Bill 124
January13, 2011
Presented by Bob Lane
Senate Fish and Game Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel of Montana Department of Fish, Wildlife & Parks (FWP). I am here to provide testimony in support of Senate Bill 124.

It has been about 30 years since the last recodification of FWP codes. FWP is proud to have been part of this Title 87 Working Group, and we are similarly proud of the committee's accomplishments and final product. This effort is a direct result of a request by the Montana Magistrates Association that was approved by the 2007 Legislature through HJR16 sponsored by then Representative Ripley.

The bill before you today is the culmination of many months of hard work and dedication under the constant guidance of Legislative Services Division (LSD) staff. FWP believes it will help significantly with clarification of fish and wildlife criminal statues and their penalties. We believe that this bill addresses most of the issues identified in 2007. Additionally, please note that there will be no fiscal impact as a result of this effort.

It is important to underscore the fact that that there have been no changes in the substance of the laws which address criminal offenses only. The committee has carefully reorganized these criminal statutes and attached the appropriate penalties to each criminal statute without changing or affecting your predecessors' legislative intentions. There are no changes to any of the civil statutes that authorize and restrict all other functions of FWP. The working group and LSD staff were extremely careful in this regard.

As you have heard, this bill will simplify Title 87 for everyone's use. We urge your recognition of this effort with the passage of SB124.

MONTANA STATE SENATE
Visitors Register
SENATE FISH AND GAME COMMITTEE

Thursday, January 13, 2011
SB 124 - Reorganize and recodify fish and game criminal statutes
Sponsor: Senator Rick Ripley

PLEASE [redacted]

Name	Representing	Support	Oppose
John L. "Pete" Brown	CHRM. LC99 WORK GROUP	✓	
Lacey Conner	Montana Magistrates	✓	
Mary "Marty" Phippen	Mt. Magistrates Assn.	✓	
Doug Sternberg			Informational
Patty Ebert	MCAA	✓	
Ben Lamb	MWF	✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

SENATE STANDING COMMITTEE REPORT

January 13, 2011

Mr. President:

We, your committee on **Fish and Game** recommend that **Senate Bill 124** (first reading copy -- white) **do pass**.

Signed: _____
Senator John Brenden, Chair

- END -

Committee Vote:
Yes 10, No 0
Fiscal Note Required __

SB0124001SC.sdr

DR
93

2nd Reading - Committee of Whole

Excused: SD 6.
Total 1

SB 112 - Senator Hinkle moved **SB 112** do pass. Motion carried as follows:

Yeas: Arthun, Balyeat, Barrett, Brenden, Brown, Buttrey, Essmann, Gallus, Hinkle, Hutton, Jackson, Jones, Lake, Lewis, Moore, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Vincent, Walker, Wittich, Zinke, Mr. President.
Total 27

Nays: Augare, Blewett, Branae, Caferro, Erickson, Facey, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Moss, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: SD 6.
Total 1

SB 124 - Senator Ripley moved **SB 124** do pass. Motion carried as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: SD 6.
Total 1

Senator Essmann moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Peterson in the chair. Chairman Lake moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Kaufmann,

3rd Reading

Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: SD 6, Tutvedt.
Total 2

SB 124 passed as follows:

Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Murphy, Olson, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: SD 6, Tutvedt.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Essmann moved that the Senate adjourn until 1:00 p.m., Thursday, January 20, 2011. Motion carried.

Senate adjourned at 1:40 p.m.

MARILYN MILLER
Secretary of the Senate

JIM PETERSON
President of the Senate

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INTRODUCED BY Senate BILL NO. 124
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT

THIRD READING
SB 124

APPROVED BY COMM ON FISH & GAME

Senate BILL NO. 124

INTRODUCED BY _____ _____ _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: Chair Ted Washburn, on March 17, 2011 at 3:00 PM, in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Ted Washburn, Chair (R)
Rep. Mike Phillips, Vice Chair (D)
Rep. Jeffery W. Welborn, Vice Chair (R)
Rep. Carlie Boland (D)
Rep. Pat Connell (R)
Rep. Virginia Court (D)
Rep. Robyn Driscoll (D)
Rep. Kelly Flynn (R)
Rep. Bill Harris (R)
Rep. Douglas (Doug) Kary (R)
Rep. Dan Kennedy (R)
Rep. Austin Knudsen (R)
Rep. Mike Miller (R)
Rep. Jesse O'Hara (R)
Rep. Ken Peterson (R)
Rep. Jean Price (D)
Rep. Dan Skattum (R)
Rep. Franke Wilmer (D)
Rep. Max Yates (R)

Members Excused: None

Members Absent: Rep. Cleve J. Loney (R)

Staff Present: Cara Gold, Committee Secretary
Hope Stockwell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 576, 3/11/2011; SB 124, 3/11/2011; SB 144, 3/11/2011; SB 174, 3/11/2011

Closing by Sponsor:

00:34:01 Rep. Harris

HEARING ON SB 124

Opening Statement by Sponsor:

00:37:55 Sen. Rick Ripley (R), SD 9, opened the hearing on SB 124, Reorganize and recodify fish and game criminal statutes.

00:40:05 Rep. Loney entered the hearing.

Proponents' Testimony:

00:40:31 Joe Maurier, FWP
00:41:10 Pete Howard, Justice of the Peace for Teton County
EXHIBIT(fih60a05)
00:48:17 Larry Epstein, County Attorneys Association
00:49:09 Ben Lamb, MWF

Opponents' Testimony: None

Informational Testimony:

00:49:42 Barbara Harris, Assistant Attorney General
00:50:01 Doug Sternberg, Former Legislative Services Division Staff

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:54:36 Sen. Ripley

HEARING ON SB 144

Opening Statement by Sponsor:

00:56:09 Sen. John Brenden (R), SD 18, opened the hearing on SB 144, Revise laws governing translocation of bison; prohibit free-roaming bison.

Proponents' Testimony:

01:01:49 Cele Pohle, Powell County Commissioner
EXHIBIT(fih60a06)
01:03:20 John Hollenback, Self
01:05:47 Brian Quigley, Self
01:07:52 Ralph Mannix, Avon County Commissioner
01:09:09 Tim Ravndal, Lewis and Clark Conservative Tea party Group (LCCTP)
01:09:58 Doug Crachy, Self

HOUSE OF REPRESENTATIVES
Roll Call
FISH, WILDLIFE, AND PARKS COMMITTEE

DATE: 3/17/2011

NAME	PRESENT	ABSENT/ EXCUSED
REP. JEFFREY WELBORN, VICE CHAIR		
REP. MIKE PHILLIPS, VICE CHAIR		
REP. AUSTIN KNUDSEN		
REP. DAN KENNEDY		
REP. BILL HARRIS		
REP. CLEVE LONEY		
REP. KELLY FLYNN		
REP. KEN PETERSON		
REP. VIRGINIA COURT		
REP. CARLIE BOLAND		
REP. ROBYN DRISCOLL		
REP. JEAN PRICE		
REP. FRANKE WILMER		
REP. MIKE MILLER		
REP. PATRICK CONNELL		
REP. DAN SKATTUM		
REP. JESS O'HARA		
REP. DOUGLAS KARY		
REP. MAX YATES		
REP. TED WASHBURN, CHAIR		

EXHIBIT 5
DATE 3/17/2011
SB 124

SB 124

March 17, 2011

TESTIMONIAL OUTLINE
JOHN L. "PETE" HOWARD
JUSTICE OF THE PEACE - TETON COUNTY

- **HISTORICAL OVERVIEW - HJ RESOLUTION 16 [2007]**

  Sen. Ripley, then Rep. Ripley - Sponsor
  Preface or Preamble to SB 124
  Encourage Revision of Title 87 to Make Existing Codes "User Friendly"

- **REVISION OF TITLE 87 STATUTES REQUESTED**

  By Howard on behalf of Montana Magistrate's Association

- **TITLE 87 (FWP) STATUTES THEN AND NOW:**

  Criminal Violations Are:
  Confusing/Scattered Throughout 5 Existing Chapters
  Comingled With Administrative Statutes-Lacking Standard Definitions
  Codes (Title 87) Not User Friendly

- **COURT DEMOGRAPHICS**

  Courts of Limited Jurisdiction
  Justice Courts - 60 approximately (JPs) Adjudicate 90/95% of FWP Violations
  More Female Judges than Male
  Many Judges (Non-Sportsmen, Hunt, Fish & Trap)

- **HOWARD**

  14 Years Sheriff ----------> 36 Years Familiarity
  22 Years JP ----------> and Use of Statutes

- **COMPARISON**

Montana Criminal Code - Title 45
FWP Code - Title 87

- TITLE 45 - Standard Definitions Section Precedes and Applies to All Codes
Stated Offense/Stated Penalty

- TITLE 87 - Definitions (Working Group Computer Search Found:)

1. The following words are used **without being defined** in the title and may refer to some of the same processes and results:
   a. "revocation" regarding various licenses, etc. = 19 statutes;
   b. "revoke" = 8 statutes;
   c. "suspend" = 6 statutes;
   d. "forfeit" = 7 statutes; and
   e. "forfeiture" = 13 statutes.

The word "suspension is in 7 statutes, including the Interstate Wildlife Violator Compact, which defines the word.

2. The following words are used **without being defined** in the Title:
   a. "wildlife" = 144 statutes (and the Title name);
   b. "wild animals" = 8 statutes;
   c. "game" = 160 statutes, usually associated with the terms "bird," "animal," or "fish" but not always; and
   d. "big game" = 6 statutes.

The words "game animals," "upland game birds," "migratory game birds," and "game fish" are currently defined in §87-2-101.

Non-existent or scattered

CODE - 5 Chapters (Currently)
Begins with Criminal Penalties
6 Pages - Comingled with Administrative Statutes and others

"NOT USER FRIENDLY AT PRESENT"

- **TITLE 87 REVISION PROJECT**

No Substantive Changes – Revenue Neutral

102

FWP DIRECTOR APPOINTED COMMITTEE
MULTI-DISCIPLINARY INTERESTS

JP's:	John L. "Pete" Howard Larry Carver
COUNTY ATTORNEY'S:	Mike Menahan Joe Coble Stephen Gannon
ATTY GEN's:	Barbara Harris
FWP:	Jim Kropp - Chief Law Enforcement Division Jack Lynch - Staff Attorney
CODE COMMISSION:	Doug Sternberg Hope Stockwell

- **PROJECT PROPOSAL**

CREATE NEW CHAPTER
- Create "definitions" section/apply to all words/terms
- Extract all existing criminal violations;
- Relocate criminal violations in new chapter; and

DEFINITIONS SECTION FOLLOWED BY
NEW REVISION TO LOOK LIKE CRIMINAL CODES
- Stated Offense followed by applicable penalty

PASSAGE OF SB 124
-Would make Title 87 as it relates to criminal offenses "User Friendly"
- No Changes to Current Law
- Reorganization Only
- Revenue Neutral

John L. "Pete" Howard

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MONTANA House of Representatives
Visitors Register
HOUSE FISH, WILDLIFE AND PARKS COMMITTEE

Thursday, March 17, 2011
SB 124 - Reorganize and recodify fish and game criminal statutes
Sponsor: **Senator Rick Ripley**

PLEASE PRINT

Name	Representing	Support	Oppose
Ben Lamb	MWF	X	
I. L. "Pete" Edwards JP	Magistrates Assn	X	
Mary "Marty" Phippen	Mt. Magistrates Assn	X	
Bill Orsello	self	X	
Vito Quattrano	Headwaters Sportsmans Assn.	X	
Danny Corcoran	MCAA	X	
Doug Sternberg	Self	info	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: Chair Ted Washburn, on March 24, 2011 at 3:30 PM, in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Ted Washburn, Chair (R)
Rep. Mike Phillips, Vice Chair (D)
Rep. Jeffery W. Welborn, Vice Chair (R)
Rep. Carlie Boland (D)
Rep. Pat Connell (R)
Rep. Virginia Court (D)
Rep. Robyn Driscoll (D)
Rep. Kelly Flynn (R)
Rep. Bill Harris (R)
Rep. Douglas (Doug) Kary (R)
Rep. Dan Kennedy (R)
Rep. Austin Knudsen (R)
Rep. Cleve J. Loney (R)
Rep. Mike Miller (R)
Rep. Jean Price (D)
Rep. Dan Skattum (R)
Rep. Franke Wilmer (D)

Members Excused: Rep. Jesse O'Hara (R)
Rep. Max Yates (R)

Members Absent: Rep. Ken Peterson (R)

Staff Present: Cara Gold, Committee Secretary
Hope Stockwell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 617, 3/21/2011; SB 184, 3/21/2011
Executive Action:	HB 617; SB 174; HB 607; SB 43; SB 144; SB 160; SB 174; SB 212; SB 135; SB 124; SB 255; SB 301; SB 90

00:00:14 The Chairman welcomed the committee and reviewed the committee rules and agenda.
00:01:27 Hope Stockwell, Legislative Services Division (LSD)

HEARING ON HB 617

Opening Statement by Sponsor:

00:02:14 Rep. Edith (Edie) McClafferty (D), HD 75, opened the hearing on HB 617, Revise price on come home to hunt licenses.
EXHIBIT(fih66a01)

Proponents' Testimony:

00:05:06 Joe Maurier, Montana Department of Fish, Wildlife and Parks (FWP)
EXHIBIT(fih66a02)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:06:53 Rep. Flynn
00:07:24 Joe Maurier
00:07:53 Rep. Flynn
00:08:17 Joe Maurier
00:08:41 Rep. Harris
00:09:27 Joe Maurier
00:09:50 Rep. Harris
00:10:11 Joe Maurier
00:10:41 Rep. Harris
00:11:14 Joe Maurier
00:11:24 Rep. Miller
00:11:35 Joe Maurier
00:12:06 Rep. Miller
00:12:16 Joe Maurier
00:12:33 Rep. Miller
00:12:48 Joe Maurier
00:13:04 Rep. Flynn
00:13:39 Joe Maurier
00:14:26 Rep. Washburn
00:14:39 Joe Maurier

02:55:54 **Motion/Vote:** Rep. Kennedy moved that **SB 135 BE CONCURRED IN AS AMENDED**. Motion carried 12-8 by roll call vote with Rep. Boland, Rep. Connell, Rep. Court, Rep. Driscoll, Rep. Flynn, Rep. Harris, Rep. Peterson and Rep. Price voting no. Rep. O'Hara, Rep. Peterson and Rep. Yates voted by proxy. Rep. Washburn will carry the bill.

EXECUTIVE ACTION ON SB 124

02:57:57 Hope Stockwell, LSD

02:58:28 **Motion:** Rep. Kary moved that **SB 124 BE CONCURRED IN**.

Discussion:

02:58:39 Hope Stockwell
02:59:31 Rep. Connell

03:00:08 **Motion:** Rep. Kary moved that **SB 124 BE AMENDED**.
EXHIBIT(fih66a16)

03:00:27 **Motion/Vote:** Rep. Connell moved that **SB 124 BE AMENDED**. Motion carried on both amendments unanimously by voice vote. Rep. O'Hara, Rep. Peterson and Rep. Yates voted by proxy.
EXHIBIT(fih66a17)

03:02:12 **Motion/Vote:** Rep. Kennedy moved that **SB 124 BE CONCURRED IN AS AMENDED**. Motion carried unanimously by voice vote. Rep. O'Hara, Rep. Peterson and Rep. Yates voted by proxy. Rep. Menahan will carry the bill.

03:02:38 Rep. Kennedy

03:03:31 **Motion:** Rep. Wilmer moved that **SB 124 BE PLACED ON THE CONSENT CALENDAR**.

Discussion:

03:05:07 Hope stockwell
03:05:48 Rep. Wilmer
03:05:56 Rep. Phillips
03:06:01 Hope stockwell
03:06:05 Rep. Phillips
03:06:09 Rep. Kennedy
03:06:21 Rep. Phillips
03:06:24 Rep. Kennedy
03:06:40 Rep. Washburn

03:06:48 **Vote:** Motion failed 19-1 by voice vote with Rep. Skattum voting no. Rep. O'Hara, Rep. Peterson and Rep. Yates voted by proxy.

HOUSE OF REPRESENTATIVES
Roll Call
FISH, WILDLIFE, AND PARKS COMMITTEE

DATE: 3/24/2011

NAME	PRESENT	ABSENT/ EXCUSED
REP. JEFFREY WELBORN, VICE CHAIR	✓	
REP. MIKE PHILLIPS, VICE CHAIR	✓	
REP. AUSTIN KNUDSEN	✓	
REP. DAN KENNEDY	✓	
REP. BILL HARRIS	✓	
REP. CLEVE LONEY	✓	
REP. KELLY FLYNN	✓	
REP. KEN PETERSON		✓
REP. VIRGINIA COURT	✓	
REP. CARLIE BOLAND	✓	
REP. ROBYN DRISCOLL	✓	
REP. JEAN PRICE	✓	
REP. FRANKE WILMER	✓	
REP. MIKE MILLER	✓	
REP. PATRICK CONNELL	✓	
REP. DAN SKATTUM	✓	
REP. JESS O'HARA		✓
REP. DOUGLAS KARY	✓	
REP. MAX YATES		✓
REP. TED WASHBURN, CHAIR	✓	

EXHIBIT 16
DATE 3/24/2011
SB 124

Amendments to Senate Bill No. 124
1st Reading Copy

For the House Fish, Wildlife and Parks Committee

Prepared by Hope Stockwell
March 23, 2011 (10:33am)

1. Page 79.
Following: line 15
Insert: "COORDINATION SECTION. **Section 122. Coordination instruction.** If both Senate Bill No. 135 and [this act] are passed and approved, then [section 1 of Senate Bill No. 135], amending 87-3-124, is void and [section 36 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 36. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to

April 14 of the following year.

(5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-3-302;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall immediately tag an animal that has been reduced to possession in accordance with 87-2-509.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal

(6) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(7) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].""

Renumber: subsequent sections

- END -

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EXHIBIT 17
DATE 3/24/2011
SB 124

Amendments to Senate Bill No. 124
3rd Reading Copy

For the House Fish, Wildlife and Parks Committee

Prepared by Hope Stockwell
March 23, 2011 (10:35am)

1. Page 79.
Following: line 15
Insert: "COORDINATION SECTION. **Section 122. Coordination instruction.** If both House Bill No. 337 and [this act] are passed and approved, then [sections 2 and 4 of House Bill No. 337] are void and [section 1 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a

court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(32) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(34) "Wild animal" means an animal that is wild by nature as

distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(36) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing.""

Insert: "COORDINATION SECTION. **Section 123. Coordination instruction.** If both House Bill No. 536 and [this act] are passed and approved, then [sections 1 of House Bill No. 536], amending 87-3-111, is void and [section 8 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from

the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order

to pay restitution pursuant to [sections 67 through 69]."" **Insert:** "COORDINATION SECTION. **Section 124. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 3 of House Bill No. 336], amending 87-3-102, is void and [section 11 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 11. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 through 69].

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63]."" **Insert:** "COORDINATION SECTION. **Section 125. Coordination instruction.** If both House Bill No. 536 and [this act] are passed

and approved, then [section 2 of House Bill No. 536], amending 87-3-118, is void and [section 12 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition,

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the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.""

Insert: "COORDINATION SECTION. **Section 126. Coordination instruction.** If both House Bill No. 536 and [this act] are passed and approved, then [section 13 of Senate Bill No. 124] is void."

Insert: "COORDINATION SECTION. **Section 127. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 4 of House Bill No. 336], amending 87-3-506, is void and [section 48 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 48. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 and 68]."

Insert: "COORDINATION SECTION. **Section 128. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 1 of House Bill No. 336], amending

87-1-111, is void and [section 68 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 68. Restitution for illegal killing, possession, or waste of certain wildlife.** (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, possession, or waste of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.""

Insert: "COORDINATION SECTION. **Section 129. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 2 of House Bill No. 336], amending 87-1-115, is void and [section 69 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 69. Restitution for illegal killing, possession, or waste of trophy wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, possessing, or wasting a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain

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goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.""

Insert: "NEW SECTION. **Section 130. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

- END -

12

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Fish, Wildlife and Parks** recommend that **Senate Bill 124** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Representative Ted Washburn, Chair

To be carried by Representative Mike Menahan

And, that such amendments read:

1. Page 79.
Following: line 15
Insert: "COORDINATION SECTION. **Section 122. Coordination instruction.** If both House Bill No. 337 and [this act] are passed and approved, then [sections 2 and 4 of House Bill No. 337] are void and [section 1 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

Committee Vote:
Yes 20, No 0
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(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all

species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(32) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(34) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(36) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing.""

Insert: "COORDINATION SECTION. **Section 123. Coordination instruction.** If both House Bill No. 536 and [this act] are passed and approved, then [sections 1 of House Bill No. 536], amending 87-3-111, is void and [section 8 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has

died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege

to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date

of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69]."" **Insert:** "COORDINATION SECTION. **Section 124. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 3 of House Bill No. 336], amending 87-3-102, is void and [section 11 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 11. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or

bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 through 69].

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63]."

Insert: "COORDINATION SECTION. **Section 125. Coordination instruction.** If both House Bill No. 536 and [this act] are passed and approved, then [section 2 of House Bill No. 536], amending 87-3-118, is void and [section 12 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be

subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.""

Insert: "COORDINATION SECTION. **Section 126. Coordination instruction.** If both House Bill No. 536 and [this act] are passed and approved, then [section 13 of Senate Bill No. 124] is void."

Insert: "COORDINATION SECTION. **Section 127. Coordination instruction.** If both Senate Bill No. 135 and [this act] are passed and approved, then [section 1 of Senate Bill No. 135], amending 87-3-124, is void and [section 36 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 36. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-3-302;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall immediately tag an animal that has been reduced to possession in accordance with 87-2-509.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal

(6) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(7) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69]."" **Insert:** "COORDINATION SECTION. **Section 128. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 4 of House Bill No. 336], amending

87-3-506, is void and [section 48 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 48. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 and 68]."" **Insert:** "COORDINATION SECTION. **Section 129. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 1 of House Bill No. 336], amending 87-1-111, is void and [section 68 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 68. Restitution for illegal killing, possession, or waste of certain wildlife.** (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, possession, or waste of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not

included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.""

Insert: "COORDINATION SECTION. **Section 130. Coordination instruction.** If both House Bill No. 336 and [this act] are passed and approved, then [section 2 of House Bill No. 336], amending 87-1-115, is void and [section 69 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 69. Restitution for illegal killing, possession, or waste of trophy wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, possessing, or wasting a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.""

Insert: "NEW SECTION. **Section 131. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

- END -

Nays: G. Bennett, Blyton, Brodehl, Burnett, Cuffe, Edmunds, Flynn, Hale, Hendrick, Kennedy, Kerns, Knox, Lavin, More, Osmundson, Read, Skattum, Skees, Wagner.
Total 19

Excused: None.
Total 0

Absent or not voting: Malek.
Total 1

HB 641 - Representative Hands moved **HB 641** do pass. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Boland, Clark, Connell, Cook, Court, Driscoll, Edmunds, Ehli, Evans, Furey, Greef, Hands, Hansen, Hill, Hiner, Hollenbaugh, Hoven, Hunter, Ingraham, Klock, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Stahl, Swanson, Vance, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 72

Nays: G. Bennett, Blyton, Brodehl, Burnett, Cuffe, Esp, Fitzpatrick, Flynn, Gibson, Hale, Hendrick, Hollandsworth, Howard, Kary, Kennedy, Kerns, Knox, McGillvray, More, O'Neil, Osmundson, Skattum, C. Smith, Taylor, Wagner, Warburton.
Total 26

Excused: None.
Total 0

Absent or not voting: Harris, Loney.
Total 2

SB 124 - Representative Menahan moved **SB 124** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso,

Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 135 - Representative Washburn moved **SB 135** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Greef, Hale, Hansen, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 92

Nays: Boland, Court, Driscoll, Flynn, Gibson, Hands, Harris, McClafferty.
Total 8

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 173 - Representative Blasdel moved **SB 173** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McClafferty, McGillvray, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Phillips, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl,

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 124 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 99

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Flynn.
Total 1

SB 135 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hale, Hansen, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 92

Nays: Court, Driscoll, Hands, Harris, McClafferty, Noonan, Reinhart.
Total 7

SENATE BILL NO. 124

INTRODUCED BY R. RIPLEY, BRENDEN, JENT, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED IN FULL. PLEASE REFER TO 2ND RD--2ND HOUSE (TAN) FOR COMPLETE TEXT.

REFERENCE BILL AS AMENDED

13)

APPROVED BY COMM ON
FISH, WILDLIFE & PARKS

SENATE BILL NO. 124

INTRODUCED BY R. RIPLEY, BRENDEN, JENT, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA."

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 16, urging that revision of the criminal codes within Title 87 of the Montana Code Annotated be given priority; and

WHEREAS, House Joint Resolution No. 16 noted that practitioners, judges, and citizens find that the criminal codes intertwined within the fish and game laws in Title 87 are difficult to read, understand, and prosecute; and

WHEREAS, House Joint Resolution No. 16 directed that revision of the Title 87 criminal code should not include policy changes to current laws and should adhere to the intent of the legislatures that crafted the laws; and

WHEREAS, in 2008, the Director of Fish, Wildlife, and Parks appointed a Title 87 criminal code revision working group, consisting of Justices of the Peace, County Attorneys, an Assistant Attorney General, legal counsel and the enforcement administrator of the Department of Fish, Wildlife, and Parks, and legislative staff; and

WHEREAS, the working group met numerous times and spent countless hours crafting a revision that

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AS AMENDED

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makes the Title 87 criminal code more understandable without making substantive or policy changes to present law; and

WHEREAS, revision of the fish and game criminal statutes will benefit the hunting and fishing public, magistrates, and prosecutors by codifying crimes and penalties in a separate chapter of Montana law, rather than being intertwined throughout Title 87.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(7) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(8) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(9) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(10) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(11) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(12) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(13) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(14) "Knowingly" has the meaning provided in 45-2-101.

(15) "Livestock" includes ostriches, rheas, and emus.

(16) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,

including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(17) "Negligently" has the meaning provided in 45-2-101.

(18) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(19) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(20) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(21) "Person" means an individual, association, partnership, and corporation.

(22) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(23) "Purposely" has the meaning provided in 45-2-101.

(24) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(25) "Resident" has the meaning provided in 87-2-102.

(26) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(27) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(28) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(29) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(30) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(31) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild

turkey, and chukar partridge.

(32) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(33) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(34) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(35) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing.

NEW SECTION. **Section 2. Designation of violations.** A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor unless a felony is expressly provided by law.

NEW SECTION. **Section 3. Fish and game violation as inchoate offense.** Any violation of this title is an offense for purposes of the crimes of attempt, solicitation, and conspiracy set out in Title 45, chapter 4.

NEW SECTION. **Section 4. Fish and game code not to supersede criminal code -- statute of limitations.** (1) The penalty provisions of this title are intended to supplement but not supersede the provisions of Title 45. Nothing in this title limits the prosecution of any conduct defined as an offense in Title 45.

(2) Unless otherwise provided, the general time limitations for prosecutions for violations of any offense under this title are those time limitations specified in 45-1-205.

NEW SECTION. **Section 5. Penalties in addition to Title 37.** Notwithstanding the provision of this chapter, the penalties provided by this chapter are in addition to any penalties provided in Title 37, chapter 47.

NEW SECTION. **Section 6. Lawful taking to protect livestock or person.** (1) [Sections 1 through 80] may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this title if the wildlife is attacking, killing, or threatening to kill a person or livestock. However, for purposes of

protecting livestock, a person may not kill or attempt to kill a grizzly bear unless the grizzly bear is in the act of attacking or killing livestock.

(2) A person may kill or attempt to kill a wolf or mountain lion that is in the act of attacking or killing a domestic dog.

(3) A person who, under this section, takes wildlife protected by this title shall notify the department within 72 hours and shall surrender or arrange to surrender the wildlife to the department.

NEW SECTION. **Section 7. Violation of commission or department order or rule.** A person who purposely, knowingly, or negligently violates an order or rule of the commission or department shall be fined not less than $50 or more than $500. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or

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more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 9. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt.** (1) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, labeling, or packaging a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal may be subject to the additional penalties provided in [sections 63 and 64].

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 10. Hunting or fishing during closed season.** (1) A person may not hunt or attempt to hunt:

(a) any game animal or game bird or fish for or catch any fish during the closed season on any species of game animal, game bird, or fish; or

(b) an upland game bird until the commission provides an open season on that upland game bird. The open season on mourning doves is restricted to the open season on upland game birds.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting during a closed season may be subject to the additional penalties provided in [sections 63 and 64].

NEW SECTION. **Section 11. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion or wolf, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63].

NEW SECTION. **Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game

animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

NEW SECTION. **Section 13. Unlawful sale of grizzly bear.** (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount of a grizzly bear may not sell it if it has not been registered with the department pursuant to 87-3-110.

(2) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

NEW SECTION. **Section 14. Unlawful use of aircraft or boat.** (1) Except as provided in 87-3-126, a person may not:

(a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, including a helicopter;

(b) use an aircraft or helicopter for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game bird, migratory bird, game animal, or fur-bearing animal; or

(c) if in an aircraft, including a helicopter, spot or locate any game animal or fur-bearing animal and communicate the location of the game animal or fur-bearing animal to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.

(2) Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:

(a) during emergency situations;

(b) when search and rescue operations are being conducted; or

(c) for predator control as permitted by the department of livestock.

(3) A person may not use a powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game bird, game animal, or fur-bearing animal.

(4) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (4), a person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

NEW SECTION. **Section 15. Unlawful contest or prize.** (1)(a) Except as provided in subsections (1)(b)

and (1)(c), a person, firm, or club may not offer or give a prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, or fur-bearing animal or any bird or animal protected by law.

(b) A prize may be awarded for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.

(c) A person may conduct or sponsor a contest for which the monetary prize, certificate, or award does not exceed $50 for a person who kills a game animal possessing the largest antlers or horns, carrying the greatest weight, or having the longest body or any similar contest based upon the size or weight of a game animal or part of a game animal. The monetary restriction provided in this subsection (1)(c) does not apply to recognition given by a nationally established and recognized Boone and Crockett trophy institute.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 16. Harassment.** (1) (a) A person may not:

(i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

(ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or

(iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

(i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or

(ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of a violation of this section shall be fined not more than $500 or be imprisoned for not more than 30 days, or both. A person convicted of a second or subsequent violation shall be fined not more than $1,000 or be imprisoned for not more than 1 year, or both.

(3) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(4) As used in this section:

(a) "fishing" means the lawful means of fishing as described in [section 45];

(b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

(c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal, predatory animal, or fish.

NEW SECTION. **Section 17. Unlawful supplemental feeding.** (1) A person may not provide supplemental feed attractants to game animals by:

(a) purposely or knowingly attracting any cloven-hoofed ungulates, bears, or mountain lions with supplemental feed attractants;

(b) after having received a previous warning, negligently failing to properly store supplemental feed attractants and allowing any cloven-hoofed ungulates, bears, or mountain lions access to the supplemental feed attractants; or

(c) purposely or knowingly providing supplemental feed attractants in a manner that results in an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.

(2) A person is not subject to civil or criminal liability under this section if the person is engaged in:

(a) the normal feeding of livestock;

(b) a normal agricultural practice;

(c) cultivation of a lawn or garden;

(d) the commercial processing of garbage; or

(e) recreational feeding of birds unless, after having received a previous warning by the department, the person continues to feed birds in a manner that attracts cloven-hoofed ungulates or bears and that may contribute to the transmission of disease or constitute a threat to public safety.

(3) This section does not apply to supplemental feeding activities conducted by the department for

disease control purposes.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 18. Shooting at simulated wildlife.** (1) A person may not discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state statute or commission rule regulating the hunting of the wildlife being simulated when the decoy is being used by a certified peace officer.

(2) A person convicted of a violation of this section is subject to the same penalty as prescribed for the state statute or commission rule violated during the attempted hunting of the actual wildlife being simulated. In addition, the person shall pay restitution of $50 to the department for the repair of damages to simulated wildlife decoys.

NEW SECTION. **Section 19. Checking station offenses.** (1) A person, upon the request of the director, the director's authorized representative, or any game warden, shall produce for inspection any current fish and game license that has been issued to the person and any game animals, birds, fish, or fur-bearing animals in the person's possession. Hunters or anglers entering or leaving areas for which checking stations have been established shall stop and report if a checking station is on the hunter's or angler's route of travel to or from the hunting or fishing area and personnel are on duty.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 20. Unlawful relocation of fish.** (1) A person or firm may not:

(a) place or cause to be placed caged live fish in any of the public waters of the state of Montana, except as provided by department regulation;

(b) without written department approval, move live or dead salmonid fish or eggs from one in-state location to another when the fish or eggs are known to be infected with fish pathogens specified by the department as posing a threat to fisheries;

(c) import live salmonid fish or eggs into Montana without meeting the requirements of 87-3-221; or

(d) discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems pursuant to 87-3-222(2).

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 21. Field trial offenses.** (1) A person may not conduct a field trial unless the person has a permit under 87-4-915.

(2) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any of the terms of the permit.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 22. Hunting, fishing, or trapping without license.** (1) Except as provided in subsection (2), a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department if the person is 16 years of age or older.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in [sections 63 and 64].

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 23. Unlawful procurement of license, permit, or tag.** (1) A person may not:

(a) subscribe to or make any materially false statement on an application or license. Any material false statement contained in an application renders the license issued pursuant to it void.

(b) purchase a hunting, fishing, or trapping license without first having obtained a wildlife conservation license pursuant to 87-2-201; or

(c) purposely or knowingly assist an unqualified applicant in obtaining a resident license.

(2) A license agent may not sell any hunting, fishing, or trapping license to:

(a) an applicant who fails to produce the required identification at the time of application for licensure

pursuant to 87-2-106(1) and 87-2-202(1); or

(b) a person who does not present the person's wildlife conservation license at the time of application for the licenses.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 24. Nonresident license or permit offenses.** (1) A person who is not a resident may not:

(a) apply for or purchase for a nonresident's use the following resident licenses and permits:

(i) wildlife conservation license;

(ii) hunting license or permit; or

(iii) fishing license or permit;

(b) affirm to or make a false statement to obtain a resident license.

(2) A person convicted of a violation of this section shall be fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000 or be imprisoned in the county jail for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for not less than 18 months.

NEW SECTION. **Section 25. License, permit, or tag offenses.** (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in [section 26(2)], a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 26. Unlawful possession of hunting or fishing license or permit.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of a hunting or fishing license or permit if the person knowingly carries or has physical control over a valid and unused:

(a) hunting license or permit issued to another person while in any location that the species to be hunted may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

(c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or rule.

(2) The prohibition in subsection (1) does not apply:

(a) to a person who is carrying or has physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person; and

(b) when a properly obtained and validated license or permit is attached to a lawfully killed game animal.

(3) Except as provided in subsection (4), a person who violates this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to

use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued or by knowingly carrying, having physical control of, or selling two or more licenses or permits that were issued in violation of applicable law or rule is guilty of a felony and upon conviction shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and lose the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

NEW SECTION. **Section 27. Hunting, fishing, or trapping while privileges or licenses forfeited or suspended.** (1) A person may not hunt, fish, or trap while the person's license or privilege to hunt, fish, or trap in this state is forfeited for a violation of this title or any other law pertaining to fish and game in this state. A person convicted of a violation of this section may be fined not less than $500 or more than $2,000 and shall be imprisoned in the county detention center for not less than 5 days or more than 6 months.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not hunt, fish, or trap in this state while that privilege is suspended. A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 28. Unlawful procurement of license while privileges forfeited or suspended.** (1) A person whose privilege to hunt, fish, or trap in this state is forfeited for a conviction or forfeiture of bail or bond for a violation under [sections 1 through 80] in this state may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit while that privilege is forfeited.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not apply for or purchase any license to hunt, fish, or trap in this state while that privilege is suspended.

(3) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 29. Failure to surrender license for violation in participating state.** A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, and who refuses to surrender any current hunting, fishing, or trapping license as required shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 30. Offense of noncompliance in Montana.** A person who hunts, fishes, traps, purchases licenses, or refuses to surrender any current hunting, fishing, or trapping license in violation of [section 76] shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 31. Offense of noncompliance in participating state.** A person who hunts, fishes, or traps, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, fishing, or trapping license in violation of 87-1-804 shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

NEW SECTION. **Section 32. Unlawful special application or entry.** A person convicted of unlawfully applying for or entering a drawing for any special license or permit in violation of [section 75] shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 60 days, or both.

NEW SECTION. **Section 33. Unlawful use of equipment while hunting.** (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife

except predatory animals and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm;

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 34. Unlawful hunting within city or town.** (1) A person may not hunt or attempt to hunt any deer within the boundaries of any incorporated or unincorporated city or town of this state except as allowed under a plan developed by a city or town and approved by the department pursuant to 7-3-1105, 7-3-1222, or 7-31-4110.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 35. Unlawful hunting from public highway.** (1) Except as provided in 87-2-803(4), a person may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 36. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (5), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 37. Unlawful use of vehicle while hunting.** (1) Except as provided in 87-2-803(4), a person may not:

(a) hunt or attempt to hunt any game animal or game bird from any self-propelled or drawn vehicle; or

(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(2) Except as provided in 87-2-803(4), a person may not, while hunting a game animal or bird:

(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush,

or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;

(b) use a motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

(3) The restrictions in subsection (2) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land and not to hunting on federal land unless the federal agency specifically requests or approves state enforcement.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 38. Unlawful destruction of evidence of sex.** (1) A person who kills a big game animal in this state may not destroy evidence of the sex of the big game animal so as to make the determination of the sex of the big game animal uncertain.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 39. Migratory game bird offenses.** A person who violates any provision of 87-3-403 related to migratory game birds shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 40. Tagging of game animal offenses.** (1) Each license issued by the department authorizing the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the department prescribes. When a person kills a game animal under the license, the person shall immediately cut out from the tag, coupon, or other marker the date the animal was killed and attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license holder, the license holder's address, and any other information requested on the tag, coupon, or other marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed. When a game animal has been lawfully killed and the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal becomes the property of the person who lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

(2) A person who kills any game animal by authority of any license issued for the killing of the game animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the game animal or portion of the game animal.

(3) A person may not fail to keep the tag, coupon, or other marker attached to the game animal or portion of the game animal while the animal is possessed by the person.

(4) A person may not tag a game animal with a tag restricted to a hunting district other than the hunting district where the game animal was killed.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in

77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 41. Tagging of turkey offenses.** (1) A person who kills, captures, or possesses a wild turkey by authority of any turkey tag or permit may not:

(a) fail or neglect to attach the tag to the turkey;

(b) fail to validate the tag by not filling out or punch marking the tag as required; or

(c) fail to keep the tag attached while the turkey is possessed by the person.

(2) A person who takes or kills a turkey must immediately attach to the turkey's leg a valid tag in compliance with instructions on the tag.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 42. Hunting or killing over limit.** (1) A person may not attempt to kill, take, shoot, or capture or kill, take, hunt, shoot, or capture more than one game animal of any one species in any 1 license year unless the killing of more than one game animal of that species has been authorized by regulations of the department.

(2) If a person is convicted or forfeits bond or bail after being charged with hunting or killing over the limit of:

(a) mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(b) deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(3) A person convicted of unlawful taking of more than double the legal bag limit as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

NEW SECTION. **Section 43. Failure to wear hunter orange while big game hunting.** (1) Except as provided in subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

(2) As used in this section, "hunter orange" means a daylight fluorescent orange color.

(3) This section does not apply to a person hunting with a bow and arrow during the special archery season.

(4) The department shall make rules to implement this section.

(5) A person convicted of a violation of this section shall be punished by a fine of not less than $10 or more than $20.

NEW SECTION. **Section 44. Failure to obtain landowner's permission for hunting.** (1) A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take nongame wildlife or predatory animals or hunting on private property.

(2) Except as provided in subsection (3), a person who violates this section shall, upon conviction for a first offense, be fined an amount not to exceed $25.

(3) A person convicted of a violation of this section for hunting a big game animal on private property without obtaining permission of the landowner shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 45. Fishing offenses.** (1) Except when specifically authorized by law or by commission rule, a person may not:

(a) fish by any means other than by hook and single line or single rod, in hand or within immediate control. This does not prevent:

(i) fishing from a boat or the shore on a lake or reservoir by hook and two lines or two rods, in hand or within immediate control, in accordance with rules that the commission adopts;

(ii) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;

(iii) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow under rules and regulations that the commission adopts;

(iv) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (1)(a);

(v) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;

(vi) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under the rules and regulations that the commission adopts;

(vii) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or

(viii) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March under rules and regulations that the commission adopts.

(b) unlawfully use any fishing rod and line, fishing lines, spear, gig, or barbed fork;

(c) take or catch fish using fishtraps, grabhooks, spears, gigs, or other similar means for catching fish;

(d) use any gun or trap or other device to entrap, catch, capture, or take or to attempt to entrap, catch, capture, or take any game fish;

(e) have in the person's possession or under the person's control a seine, net, or other similar device

for capturing fish. A seine or net found in a vehicle, at the camp, or on the premises of a person is prima facie evidence that the seine, net, or similar device belongs to the person or persons occupying the camp or premises. This subsection (1)(e) does not apply to:

(i) a license holder for a private fish pond who is licensed to sell fish and eggs under 87-4-603;

(ii) a person with an unexpired seine or net license;

(iii) the use, by any person, of a landing net in connection with or in addition to a pole, line, and hooks in fishing for game fish; or

(iv) the possession of traps, seines, or nets when found in the vicinity of any waters in which the commission has designated that traps, seines, or nets may be used for the taking of nongame fish or game fish.

(f) take or catch fish with a hook baited with any poisonous substance or using any poisonous substance, including fish berries;

(g) use archery equipment prohibited by rule of the commission to fish; or

(h) use any carbide, lime, giant powder, dynamite, or other explosive compounds or any corrosive or narcotic poison or other deleterious substance or have any of the enumerated items in the person's possession within 100 feet of any stream where fish are found for the purpose of catching, stunning, or killing fish. This subsection (1)(h) does not apply to anyone authorized by the department to conduct lake or stream surveys or to control undesirable or overpopulated species of fish.

(2) The possession of a fishing rod and line, spear, gig, or barbed fork on the banks or shores of a stream or lake is prima facie evidence that the person or persons in whose possession these implements are found were using the implements to fish.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 46. Trapping and snaring offenses.** (1) A person may not use a snare trap for the purpose of snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and telephone number;

(b) the consent of the landowner has been obtained for a set on private property; and

(c) the snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3) A holder of a Class C-2 trapper's license may not trap or snare predatory animals or nongame wildlife on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 47. Trapping during closed season.** (1) A person may not trap or hunt or attempt to trap or hunt any fur-bearing animal until the commission provides an open season on any fur-bearing

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animal. The furs and hides of fur-bearing animals legally taken during the open season may be possessed, bought, and sold at any time except as provided by law.

(2) When it is shown that muskrats or beaver are causing severe injury to or are a menace to the structures, canal banks, or other works of an irrigation project or district or to a stock water pond, any employee or resident landowner on the project or district may kill or trap or cause to be killed or trapped any muskrat or beaver upon or in menacing proximity to the structures, canal banks, or other works of the project or district or the stock water pond during the closed season on muskrats or beaver after having secured from the director a permit to do so, except that from June 1 to August 31 of each year, a permit is not required.

(3) A person convicted of a violation of this section shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 48. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping

license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 49. Failure to report or tattoo.** (1) Any bear, wolf, tiger, mountain lion, or coyote that is captured alive to be released later or that is held in captivity for any purpose must be reported to the department within 3 days of the capture or commencement of captivity.

(2) Each animal reported as required in subsection (1) must be permanently tattooed or otherwise permanently identified in a manner that will provide positive individual identification of the animal. No tattoo is required if the animal is subject to a permanent, individual identification process by another state or federal agency.

(3) Any person holding a bear, wolf, tiger, mountain lion, or coyote in captivity shall immediately report to the department any death, escape, release, transfer of custody, or other disposition of the animal.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 50. Outfitting without a license.** (1) (a) A person may not purposely or knowingly engage in outfitting while not licensed pursuant to Title 37, chapter 47, or purposely or knowingly violate a licensing rule adopted under Title 37, chapter 47.

(b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than $200 or more than $1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(2) (a) A person or entity that represents to any other person, any entity, or the public that the person or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued in excess of $5,000 is punishable by a fine of not more than $50,000 or imprisonment in the

state prison for up to 5 years, or both.

(b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b) shall consider and may impose any of the following conditions during the period of revocation:

(a) prohibiting the offender from:

(i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant;

(ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally or through an agent or representative;

(iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

(iv) purchasing or possessing any hunting, fishing, or trapping permits; and

(b) imposing any other reasonable condition or restriction that is related to the crime committed or that is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this state.

(4) A person convicted of a violation of this section shall reimburse the full amount of any fees received to the person to whom illegal outfitting services were provided.

(5) As used in this section, the following definitions apply:

(a) "Consideration" means remuneration given in exchange for outfitting services supplied based on a business relationship between parties, but not including reimbursement for shared trip expenses.

(b) (i) "Outfitting" means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide or professional guide in accompanying that person.

(ii) The term does not include the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests.

NEW SECTION. **Section 51. Taxidermist offenses.** (1) A person convicted of a violation of 87-4-201 related to the licensing and recordkeeping of taxidermists shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) In addition to the penalties in subsection (1), the taxidermist's license of the person convicted may be revoked by the court.

NEW SECTION. **Section 52. Fur dealer offenses.** A person convicted of a violation of 87-4-302 or 87-4-303 related to the licensing and recordkeeping of a fur dealer shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 53. Alternative livestock ranch offenses.** (1) A person may not purposely or knowingly violate any provision of or rule adopted pursuant to Title 87, chapter 4, part 4, pertaining to the licensure or operation of an alternative livestock ranch.

(2) In addition to license revocation or other penalties allowed by 87-4-427, a person who purposely or knowingly violates this section shall be fined not more than $1,000 or be imprisoned in the county jail for not more than 1 year, or both.

(3) Any violation of [section 12] regarding the sale of an animal in connection with an alternative livestock ranch is subject to prosecution and penalties under that section.

NEW SECTION. **Section 54. Shooting preserve offenses.** (1) A person may not:

(a) hunt on a shooting preserve without obtaining a license pursuant to 87-4-504; or

(b) harvest game on a shooting preserve without tagging the game pursuant to 87-4-525.

(2) Each shooting preserve operator shall keep records in accordance with 87-4-526.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000

or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 55. Unlawful sale of fish or spawn.** (1) Except as provided in 87-4-601 and subsections (2) and (3) of this section, a person may not, for speculative purposes, for market, or for sale, catch game fish or remove or cause to be removed the eggs or spawn of any game fish in any way. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.

(2) The restrictions of subsection (1) do not apply to the:

(a) catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;

(b) taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond licensed under 87-4-603;

(c) catching of whitefish by the holder of a valid fishing license fishing with hook and line or a rod in specified waters designated by rules of the commission;

(d) taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under rules of the commission; or

(e) sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.

(3) A person may possess and sell legally taken nongame fish as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 56. Unlawful taking of fish or aquatic organism.** (1) A person may not take

fish or aquatic organisms for commercial purposes without obtaining a permit from the department pursuant to 87-4-609.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 57. Unlawful taking of crayfish.** (1) A person may not take crayfish from the waters of the state, except from private fish ponds regulated under 87-4-603 or as provided in subsection (2) of this section, for sale or commercial distribution.

(2) A person may take crayfish from the waters of the state for sale or commercial distribution as fishing bait under rules adopted by the department under 87-4-609.

(3) A person convicted of a violation of this section may be fined not less than $50 or more than $500 or may be imprisoned in the county jail for not more than 6 months, or both.

NEW SECTION. **Section 58. Menagerie and zoo offenses.** (1) A person may not:

(a) operate a roadside menagerie or wild animal menagerie without a permit obtained pursuant to 87-4-803;

(b) subscribe to any false statement in an application for a permit; or

(c) obtain wild animals for a roadside menagerie, wild animal menagerie, or zoo by capture from the wild or by purchase except in accordance with 87-4-804.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 59. Owning, controlling, or propagating game birds without license.** A person who owns, controls, or propagates game birds in violation of Title 87, chapter 4, part 9, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 60. Owning, controlling, or propagating furbearers without license.** A person who owns, controls, or propagates furbearers in violation of 87-4-1002 shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

NEW SECTION. **Section 61. Unlawful acquisition of furbearer.** (1) A person may not capture, take, or otherwise acquire a furbearer from the wild for use on a fur farm.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 62. Wild bird, raptor, and falcon offenses.** (1) A person who violates any provision of Title 87, chapter 5, part 2, pertaining to the regulation of wild birds, raptors, and falconry, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

NEW SECTION. **Section 63. Second offense penalties.** (1) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license;

(d) unlawful taking of more than double the legal bag limit;

(e) unlawful possession of more than double the legal bag limit; and

(f) waste of game by abandonment in the field.

(2) A person convicted of the offenses in subsection (1) in the time periods specified in subsection (1) shall be fined not less than $2,000 or more than $5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture unless the court imposes a longer period.

NEW SECTION. **Section 64. Third offense penalties.** (1) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license; and

(d) unlawful taking of more than double the legal bag limit.

(2) A person convicted of the offenses in subsection (1) in the time period specified in subsection (1) shall be fined not less than $5,000 or more than $10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for life.

NEW SECTION. **Section 65. Additional penalty for use of artificial light or scope.** (1) If a person is convicted of illegally taking an animal described in [section 68 or 69] through the use of projected artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(2) A person convicted of taking an animal while using projected artificial light as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

NEW SECTION. **Section 66. Different penalty for unlawful attempt to hunt or trap.** A person convicted of unlawfully attempting to hunt or trap a game animal shall be fined not less than $200 or more than $600 or be imprisoned in the county detention center for not more than 60 days, or both.

NEW SECTION. **Section 67. Finding required for restitution.** Before restitution may be ordered pursuant to [section 68 or 69], the finder of fact at trial or the court upon entry of a guilty or nolo contendere plea shall find that the illegal killing or possession was done knowingly or purposely as defined in 45-2-101. This finding is not required for state reimbursement under [section 68] when bond or bail is forfeited.

NEW SECTION. **Section 68. Restitution for illegal killing or possession of certain wildlife.** (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.

NEW SECTION. **Section 69. Restitution for illegal killing or possession of trophy wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, or possessing a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.

NEW SECTION. **Section 70. Payment -- penalty for nonpayment of restitution.** (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 68 or 69].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

NEW SECTION. **Section 71. Disposition of proceeds from restitution.** All money collected by a court pursuant to [sections 67 through 70] must be remitted to the department of revenue for deposit in the state special revenue fund account to the credit of the department for hunter education purposes or for enforcement.

NEW SECTION. **Section 72. Remedial hunter education program -- sentencing.** (1) The court may sentence a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges or who is convicted of a hunting violation to complete a remedial hunter education course.

(2) A person who is sentenced by the court to complete a remedial hunter education course shall successfully complete the course before any license privileges may be restored.

(3) The department may not issue a hunting, fishing, or trapping license to a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges until the person has successfully completed the remedial hunter education course.

(4) If the person who is sentenced by the court to complete the remedial hunter education course is not a resident of the state of Montana, the sentencing court shall require the person to complete a similar remedial hunter education course in the person's state of residence. If a similar course does not exist in the person's state of residence, the person shall complete Montana's course before any Montana hunting, fishing, or trapping license may be issued.

(5) This section does not allow the issuance of any licenses to a person whose hunting or fishing privileges have been revoked for life.

NEW SECTION. **Section 73. Costs of imprisonment.** Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to [sections 1 through 80] to pay the costs of imprisonment under [sections 1 through 80].

NEW SECTION. **Section 74. Privileges of juveniles.** A mandatory forfeiture of privileges imposed pursuant to [sections 1 through 80] does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's current hunting, fishing, or trapping licenses issued by this state and the juvenile's privilege to hunt, fish, or trap in this state upon conviction or forfeiture of bond or bail for a violation of this title.

NEW SECTION. **Section 75. Restriction on special application or entry when ordered to pay restitution.** A person convicted or who has forfeited bond or bail under this title and who has been ordered to pay restitution under the provisions of [section 68 or 69] may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date

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of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a mountain sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period.

NEW SECTION. **Section 76. Suspension of privileges for failure to comply with citation, sentence, or administrative suspension.** (1) A person who fails to comply with the terms of a court citation or the terms of an administrative suspension or who fails to fulfill the obligations of any court-imposed sentence for a wildlife violation under this title, resulting in the issuance of a warrant for the person's arrest, shall forfeit any current hunting, fishing, or trapping license issued by this state to the department, and the person's privilege to hunt, fish, or trap in this state is suspended until the terms of the court citation or sentence are satisfied.

(2) A person who loses the person's privileges under this section must be notified by the department or by the administrative authority in person or by mail.

NEW SECTION. **Section 77. Forfeiture of license or permit for littering.** A holder of a Montana resident or nonresident fishing or hunting license or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, camp, or trap in this state for a period of 1 year from the date of conviction.

NEW SECTION. **Section 78. Revocation of exception.** If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by 87-2-801 through 87-2-803 must be revoked for not less than 6 months.

NEW SECTION. **Section 79. Notification of loss of privileges -- reinstatement and revocation.** (1) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) After a forfeiture period imposed pursuant to [sections 1 through 80] and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment

of any fine, costs, or restitution, have been met or that the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

NEW SECTION. **Section 80. Suspension by administrative authority -- notice and surrender of license or permit.** If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

NEW SECTION. **Section 81. Penalties.** A person who violates this part is subject to the penalties provided in [section 54].

Section 82. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of $1,500, injures or kills a commonly domesticated hoofed

animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks ~~is subject to an additional penalty as provided in 87-1-102(2)(e)~~ shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture."

Section 83. Section 45-6-203, MCA, is amended to read:

"45-6-203. Criminal trespass to property. (1) Except as provided in 15-7-139, 70-16-111, and 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping ~~is subject to an additional penalty as provided in 87-1-102(2)(f)~~ may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture."

Section 84. Section 81-2-121, MCA, is amended to read:

"81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if the landowner or agent:

(a) ~~the landowner or agent~~ notifies or makes a good faith effort to notify the department in order to allow

as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) ~~the landowner or agent~~ makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) ~~the landowner or agent~~ is not in violation of subsection (2)(a).

(2) (a) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection ~~is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1)~~ (2)(a) shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) This subsection (2) does not apply to supplemental feeding activities conducted by the department for disease control purposes."

Section 85. Section 87-1-120, MCA, is amended to read:

"87-1-120. Remedial hunter education program. (1) The department shall develop a remedial hunter education program for hunting law violators.

(2) The program must be funded through money collected by a court pursuant to ~~87-1-111 through 87-1-113~~ [sections 67 through 70].

(3) The department shall determine the qualifications for instructors, hire the instructors, and pay the instructors at a rate determined by the department.

(4) A person who is sentenced by the court to complete a remedial hunter education course shall pay the costs directly attributable to the person's participation in the remedial hunter education program.

(5) The course instructor shall notify the sentencing court of the participant's attendance record and of the participant's success or failure in completing the program.

(6) A participant whose hunting, fishing, or trapping license has been revoked shall successfully complete the program before license privileges may be reinstated."

Section 86. Section 87-1-232, MCA, is amended to read:

"87-1-232. Tattoo records. (1) The department shall maintain a record of each animal reported to it pursuant to ~~87-1-231~~ [section 49]. The record shall indicate:

(a) the person by whom the animal was captured or is held in captivity;

(b) the location of the capture or captivity;

(c) the date the animal was tattooed;

(d) the purpose of the captivity or capture; and

(e) any death, escape, release, transfer of custody, or other disposition of ~~such~~ the animal.

(2) The department shall establish by rule a fee to be charged, which may not exceed the administrative cost of maintaining the record required by this section."

Section 87. Section 87-1-234, MCA, is amended to read:

"87-1-234. Exceptions to tattoo and compensation requirements. Sections ~~87-1-231 through~~ 87-1-232, 87-1-233, and [section 49] do not apply to those animals:

(1) captured and released as part of an ongoing game management program or an ongoing predator control program unless ~~such~~ the animals have been involved in livestock killing; or

(2) captured and released as part of a scientific, educational, or research program as certified by the department."

Section 88. Section 87-1-601, MCA, is amended to read:

"87-1-601. (Temporary) Use of fish and game money. (1) (a) Except as provided in subsections (7) and (9), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs.

87-1-601. (Effective March 1, 2011) Use of fish and game money. (1) (a) Except as provided in 87-1-290 and subsections (7) and (9) of this section, all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs."

Section 89. Section 87-1-803, MCA, is amended to read:

"87-1-803. Reciprocal recognition of license suspensions -- suspension of privileges for conviction in participating state. (1) When the department receives notice of the suspension of a person's hunting, trapping, or fishing privileges by a participating state, the department shall determine whether the violation leading to the suspension could have led to the forfeiture of privileges under Montana law. If the department determines that the person's privileges could have been forfeited, the department shall suspend the person's privileges to hunt, trap, or fish in Montana for the same period as imposed by the participating state or for the minimum period that would have been imposed under Montana law, whichever period is longer.

(2) When the department receives notice of a conviction of a Montana resident from the licensing authority of the issuing state, the department shall treat the conviction as if it had occurred in Montana and shall

determine whether the conviction could have led to the forfeiture of the resident's hunting, trapping, or fishing privileges under Montana law. If the department determines that the resident's privileges could have been forfeited, the department shall suspend the resident's privileges to hunt, trap, or fish in Montana for the minimum period that would have been imposed under Montana law.

(3) Notice of the suspension must be sent to the person, who shall surrender any current Montana hunting, trapping, and fishing licenses to the department within 10 days.

~~(4) A person whose privileges have been suspended and who hunts, traps, or fishes in Montana, who applies for or purchases any licenses or permits to hunt, trap, or fish in Montana, or who refuses to surrender any current hunting, trapping, and fishing licenses as required is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 90. Section 87-1-804, MCA, is amended to read:

"87-1-804. Suspension of privileges for failure to comply with citation issued in participating state. (1) The department shall suspend the hunting, trapping, or fishing privileges of any resident of Montana upon notification from the licensing authority of an issuing state that the resident has failed to comply with the terms of a citation issued for a wildlife violation. The suspension remains in effect until the department receives satisfactory evidence of compliance from the issuing state.

(2) Notice of the suspension must be sent to the resident, who shall surrender all current Montana hunting, trapping, and fishing licenses to the department within 10 days.

~~(3) A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 91. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in ~~87-1-102,~~ chapter 3~~,~~ and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

~~(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.~~

~~(4) "Commission" means the state fish, wildlife, and parks commission.~~

~~(5)~~(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

~~(6)~~(4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(7)~~(5) "Game fish" means all species of the family ~~salmonidae~~ Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus ~~stizostedion~~ Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus ~~esox~~ Esox (northern pike, pickerel, and muskellunge); all species of the genus ~~micropterus~~ Micropterus (bass); all species of the genus ~~polyodon~~ Polyodon (paddlefish); all species of the family ~~acipenseridae~~ Acipenseridae (sturgeon); all species of the genus ~~lota~~ Lota (burbot or ling); the species ~~perca~~ Perca flavescens (yellow perch); all species of the genus ~~pomoxis~~ Pomoxis (crappie); and the species ~~ictalurus~~ Ictalurus punctatus (channel catfish).

~~(8)~~(6) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

~~(9)~~(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; ~~wilson's~~ Wilson's snipes or jacksnipes; and mourning doves.

~~(10)~~(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

~~(11)~~(9) "Open season" means the time during which game birds, fish, and game and fur-bearing animals

may be lawfully taken.

~~(12)~~(10) "Person" means individuals, associations, partnerships, and corporations.

~~(13)~~(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

~~(14)~~(12) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(15)~~(13) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(16)~~(14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 92. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses, permits, or tags allowed -- fees. ~~(1) It is unlawful for a person to apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under subsection (4) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses, permits, or tags than are authorized.~~

~~(2) It is unlawful for the holder of a replacement license, permit, or tag to make the replacement license, permit, or tag available for use by another person.~~

~~(3)~~(1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed $5.

~~(4)~~(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant.

~~(5)~~(3) For all of the game management licenses issued under subsection ~~(4)~~ (2), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number

of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(6)~~(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take an antlerless elk. Unless otherwise reduced pursuant to subsection ~~(7)~~ (5), the fee for a Class B-12 license is $273. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(7)~~(5) The fee for a resident or nonresident license of any class issued under subsection ~~(4)~~ (2) or ~~(6)~~ (4) may be reduced annually by the department."

Section 93. Section 87-2-106, MCA, is amended to read:

"87-2-106. Application for license ~~-- penalties for violation -- forfeiture of privileges~~. (1) A license may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. ~~It is a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure.~~ Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the officer or agent issuing the license.

(2) Except as provided in subsection (3), department employees or officers may issue licenses by telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before the employee or officer.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee.

~~(6) It is unlawful to subscribe to or make any statement, on an application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.~~

~~(7)~~(6) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any license until all terms of the court sentence in which the privilege was revoked, including making restitution, have been met or the person is in compliance with installment payments specified by the court and the department has received notification from the sentencing court to that effect pursuant to ~~87-1-102(1)~~ [section 79(2)].

~~(8) It is unlawful for a nonresident to apply for or purchase for a nonresident's use the following resident licenses and permits:~~

~~(a) wildlife conservation license;~~

~~(b) hunting license or permit; or~~

~~(c) fishing license or permit.~~

~~(9) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a resident license in violation of subsection (8) shall be:~~

~~(i) fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000;~~

~~(ii) imprisoned in the county jail for not more than 6 months; or~~

~~(iii) both fined and imprisoned.~~

~~(b) In addition to the penalties specified in subsection (9)(a), upon conviction or forfeiture of bond or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish, and trap in Montana for not less than 18 months.~~

~~(10) It is a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in obtaining a resident license in violation of this section.~~

[~~(11)~~(7) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

~~(12)~~(8) The department shall delete an applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

Section 94. Section 87-2-202, MCA, is amended to read:

"87-2-202. (Temporary) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses

the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

87-2-202. (Effective March 1, 2011) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

Section 95. Section 87-2-411, MCA, is amended to read:

"87-2-411. ~~License required to hunt migratory~~ Migratory game ~~birds~~ bird licenses -- fees --

disposition of proceeds. (1) ~~A person 16 years of age or older may not hunt migratory game birds without first having obtained a valid migratory bird license from the department.~~ The fee for a resident to purchase the migratory game bird license is $6.50. The fee for a nonresident to purchase the migratory game bird license is $50.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended only for the protection, conservation, and development of wetlands in Montana."

Section 96. Section 87-2-521, MCA, is amended to read:

"87-2-521. Class D-3--resident hound training license. A person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of $5, may receive a Class D-3 hound training license that entitles the holder to use a dog or dogs to aid in pursuing mountain lions or bobcats during the training season established in ~~87-3-124(3)(c)~~ [section 36(4)]."

Section 97. Section 87-2-807, MCA, is amended to read:

"87-2-807. Taking migratory game birds for propagation -- avicultural permit. (1) The department may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in 87-2-101~~(9)~~, for the purpose of propagation. Before issuing an avicultural permit, the department shall determine that the applicant has been issued the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

(2) An avicultural permit issued under this section must specify:

(a) the species of migratory game birds allowed to be taken under the permit;

(b) whether eggs or hatched birds, or both, may be taken;

(c) the number of eggs or hatched birds, or both, that may be taken;

(d) areas in which collection may be made;

(e) means by which collection may be made;

(f) the time period for which the permit is valid; and

(g) any other conditions imposed by the department under rules adopted pursuant to subsection (5).

(3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in accordance

with this section remain the property of the state and may be disposed of only with the permission of the department. Progeny of hatched migratory game birds taken under permit as provided in this section become the private property of the holder of the permit who propagates the migratory game birds, and the owner may sell or transfer the birds as private property, subject to any applicable state or federal law or regulation.

(4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed the cost of issuing the permit.

(5) The department shall adopt rules implementing this section."

Section 98. Section 87-3-110, MCA, is amended to read:

"87-3-110. ~~Registration for sale of~~ Regulation of certain grizzly bears and grizzly bear parts. (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount ~~thereof~~ of a lawfully killed grizzly bear may sell it if it has been registered with the department in the manner and upon forms provided by the department. The registration form must specifically describe the grizzly bear or the hide, head, or mount thereof and must accompany it upon any sale.

(2) Bears or parts ~~thereof~~ of bears may be registered as follows:

(a) Before January 1, 1986, any lawfully killed grizzly bear or part ~~thereof~~ of the bear may be registered.

(b) On or after January 1, 1986, bears lawfully killed in Montana may be registered within 10 days after the date of kill, and bears lawfully killed outside Montana may be registered within 3 months after the date of kill upon presentation of proof of lawful kill.

(3) Registration under this section does not legalize any prior illegal act, such as the unlawful killing or theft of a grizzly bear or part ~~thereof~~ of the bear.

(4) A person who is responsible for the death of a grizzly bear shall deliver all parts of the grizzly bear required by department or commission regulation for scientific purposes to an officer or employee of the department for inspection as soon as possible after removal, and the department shall return to the person any bone structure and skull within 1 year upon written request. The hide must be returned immediately."

Section 99. Section 87-3-121, MCA, is amended to read:

"87-3-121. ~~Conditions for award of prizes~~ Regulation of contests. ~~(1) It shall be unlawful for any person, firm, corporation, association, or club to offer or give any prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, fur-bearing~~

~~animals, or any bird or animal now or that shall be hereafter protected in any way by the fish and game laws of the state of Montana.~~

~~(2)~~ The commission shall adopt rules to regulate contests, in accordance with provisions of [section 15], by a person, firm, ~~corporation, association,~~ or club that intends to offer or give a prize, gift, or anything of value in connection with or as a prize for the taking, capturing, killing, or in any manner acquiring fish that are protected under Title 87. The commission's rules must be based on the commission's duty under Title 87 to protect, preserve, and propagate fish in the state.

~~(3) This section shall not be construed to prohibit the award of prizes for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.~~"

Section 100. Section 87-3-126, MCA, is amended to read:

"**87-3-126. ~~Restrictions on use~~ Use of aircraft or ~~boats~~ helicopter -- ~~exception --~~ authority to issue permits and adopt rules.** ~~(1) (a) A game bird or game or fur-bearing animal may not be killed, taken, or shot at from any aircraft, including helicopters.~~

~~(b) An aircraft or helicopter may not be used for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game or migratory birds or game or fur-bearing animals.~~

~~(c) A powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail may not be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game birds or game or fur-bearing animals.~~

~~(2) It is unlawful for any person airborne in any aircraft, including a helicopter, to spot or locate any game or fur-bearing animals and communicate the location of the game or fur-bearing animals to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.~~

~~(3) Within the boundaries of a national forest, except as permitted by the department, it is unlawful to use aircraft, including helicopters, for hunting purposes, except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:~~

~~(a) during emergency situations;~~

~~(b) when search and rescue operations are being conducted; or~~

~~(c) for predator control as permitted by the department of livestock.~~

~~(4)~~ An aircraft or helicopter may be used for the purpose of herding, driving, or hazing wild animals damaging private property or crops on the property in question pursuant to a permit issued by the department. The commission shall adopt rules for the issuance of the permit. The permit may be conditioned to address individual circumstances of each application for a permit. The department may not issue permits during any legal hunting season for the species for which a permit was requested. The permitting program must comply with requirements of federal law for ~~such~~ the activity."

Section 101. Section 87-3-204, MCA, is amended to read:

"**87-3-204. ~~Restrictions on fishing methods -- allowed fishing methods~~ Designation of state waters for particular fishing methods.** ~~(1) A game fish may not be caught, captured, or taken or attempted to be caught, captured, or taken by the aid or with the use of any gun or trap, nor may any gun, trap, or other device to entrap game fish be used, made, or set.~~

~~(2) Except when specifically authorized by law or commission rule, a person may not:~~

~~(a) take or catch fish in any of the waters of this state, except with hook and line held in hand or line and hook attached to rod or pole held in hand or within immediate control;~~

~~(b) take or catch fish with hook baited with any poisonous substance or using any poisonous substance, including fish berries; or~~

~~(c) take or catch fish using fishtraps, grabhooks, seines, nets, spears, gigs, or other similar means for catching fish.~~

~~(3)~~(1) (a) The commission may designate waters within the state in which rubber or spring-propelled spears employed by persons swimming or submerged in the water or traps, seines, nets, spears, or gigs may be used for taking:

(i) nongame fish; or

(ii) walleyed pike, sauger, northern pike, burbot (ling), and whitefish.

(b) The commission may adopt rules for the taking of fish under this subsection ~~(3)~~ (1), and the rules may be specific to the water designated. The designated waters may be closed at the discretion of the commission.

(c) Except when the taking of game fish is authorized pursuant to subsection ~~(3)(a)(ii)~~ (1)(a)(ii), all game fish captured while fishing as authorized under this subsection ~~(3)~~ (1) must be returned uninjured to the waters

from which they were taken.

~~(4)~~(2) The commission may designate certain waters where setlines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines that may be used as setlines.

~~(5) Game fish must be taken only by hook and single line or single rod in hand or within immediate control. This does not prevent, however:~~

~~(a) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;~~

~~(b) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow, under rules and regulations that the commission prescribes;~~

~~(c) the taking of game fish pursuant to subsection (3);~~

~~(d) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (5);~~

~~(e) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;~~

~~(f) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under the rules and regulations that the commission prescribes;~~

~~(g) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or~~

~~(h) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March, under rules and regulations prescribed by the commission.~~

~~(6)~~(3) The commission may designate waters where authorized commercial fishing operators may use approved nets, seines, and traps to fish for designated species of nongame fish."

Section 102. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless the importations are shipped direct from the source to destination and a written certification that the source is free of all fish pathogens specified by the department as posing a threat to existing fisheries accompanies the

shipment. Certification must be made by a fish pathologist approved by the director. Certification of the source may be by inspection conducted annually or at other times that the director may order.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importations do not present a substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. Import permits apply to all importations from specified and certified species and sources by a permittee until January 31 of the year succeeding the year of issuance, when the permit expires. However, a separate permit is required for importations by a permittee for species or from sources unspecified in the permittee's other permit or permits. ~~It is unlawful to import live salmonid fish or eggs into Montana without first obtaining the permit required by this subsection or to violate any conditions of the permit.~~"

Section 103. Section 87-3-222, MCA, is amended to read:

"87-3-222. When certification unnecessary. (1) Nothing in 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)] may restrict the importation and transportation of dead salmonid fish or eggs when the fish or eggs have been processed or prepared in a manner that kills those fish pathogens specified by the department as posing a threat to fisheries.

(2) Dead salmonid fish or eggs transported into Montana for processing or caught wild are exempt from the requirement for certification. However, it is unlawful to discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems."

Section 104. Section 87-3-224, MCA, is amended to read:

"87-3-224. Enforcement. The cargo and vehicle involved in a violation of ~~87-3-209~~ [section 20(1)(b)] and 87-3-210 or 87-3-221 through 87-3-223 may, at the option of the department, either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department. The department shall inform the department of transportation of the provisions regarding importation of salmonid and nonsalmonid fish and eggs so that the department of transportation may enforce the provisions at ports of entry and checking stations under 60-2-303."

Section 105. Section 87-3-403, MCA, is amended to read:

"87-3-403. Migratory game birds -- closed season and bag limits. Laws relating to migratory birds are prescribed by the regulations of the United States department of interior and the fish and wildlife service. Open season, bag limit, and other rules and regulations are announced each year by proclamation by the president of the United States. After each proclamation, the department by proper action will adopt, advertise, and enforce ~~such~~ any proclaimed regulations as may be applicable to the state of Montana. ~~Any~~ A person ~~or persons violating any provisions~~ who violates a provision of this section ~~shall be guilty of a misdemeanor and on conviction thereof shall be punished as provided by law~~ is subject to the provisions of [section 39]."

Section 106. Section 87-4-201, MCA, is amended to read:

"87-4-201. Regulation of taxidermists. (1) As used in this section, "taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(2) Before conducting the business of a taxidermist, a taxidermist shall obtain from the department a taxidermist's license and pay an annual license fee of $50.

(3) A taxidermist shall keep a written record of all the articles of wildlife in the taxidermist's possession or control, including the following information:

(a) the kind and number of each article of wildlife;

(b) the name and residence of the owner of the article of wildlife; and

(c) all the articles of wildlife shipped and to whom and where shipped.

(4) The taxidermist shall keep the written record required under subsection (3) for as long as the articles of wildlife remain in the possession of the taxidermist or at least 5 years, whichever is longer. These records must be open to inspection by a warden at any reasonable time.

~~(5) Upon conviction for a violation of this section, the taxidermist's license of the person convicted may be revoked by the court.~~

(5) A person who violates this section is subject to the penalties provided in [section 51]."

Section 107. Section 87-4-306, MCA, is amended to read:

"87-4-306. Violations. ~~No~~ A person, firm, company, or corporation may not violate any of the provisions of this part. A person convicted of a violation is subject to the penalties provided in [section 52]."

Section 108. Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- moratorium -- penalty -- seizure of illegally possessed animals. (1) A person may not operate an alternative livestock ranch in this state without having first obtained an alternative livestock ranch license from the department prior to November 7, 2000. A person may not apply for or be granted a license after that date.

(2) A person who operates an alternative livestock ranch without a license or possesses, transports, buys, or sells animals whose importation into the state is restricted pursuant to 87-4-424 is ~~guilty of a misdemeanor and is~~ subject to the penalties provided in ~~87-4-427(4)~~ [section 53].

(3) Any animal held in violation of subsection (2) or otherwise illegally possessed may be immediately seized by the department and is subject to disposal by the department. Costs of seizure may be charged to the person in possession of the animal."

Section 109. Section 87-4-427, MCA, is amended to read:

"87-4-427. Revocation of license -- criteria -- penalties. (1) The department may revoke any alternative livestock ranch license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate an alternative livestock ranch according to the provisions of this part, rules adopted under this part, or stipulations of the alternative livestock ranch license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of $100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the alternative livestock ranch operation, including but not limited to the unauthorized egress and ingress of game animal species or alternative livestock that:

(i) threatens public safety;

(ii) endangers native game animal populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the alternative livestock of others;

(f) a material and willful falsification of any required alternative livestock ranch records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of an alternative livestock ranch;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other alternative livestock and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under 87-4-428, that an alternative livestock ranch licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the alternative livestock ranch license for up to 5 years;

(b) imposition of a civil penalty not to exceed $5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to ~~criminal prosecution and a fine of not more than $1,000, imprisonment in the county jail for not more than 1 year, or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section~~ the penalties provided in [section 53]."

Section 110. Section 87-4-601, MCA, is amended to read:

"87-4-601. Sale of fish or spawn ~~unlawful -- exceptions.~~ ~~(1) Except as provided in subsections (2) through (4), a person may not, for speculative purposes, for market, or for sale, in any way, catch game fish or remove or cause to be removed the eggs or spawn of any game fish. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.~~

~~(2) The restrictions of subsection (1) do not apply to:~~

~~(a) the catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;~~

~~(b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish~~

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~~hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond licensed under 87-4-603;~~

~~(c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules of the commission;~~

~~(d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules that the commission prescribes; or~~

~~(e) the sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.~~

~~(3) (a)~~(1) Until June 30, 2018, a person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the Yellowstone River between the burlington northern railroad bridge at Glendive to the North Dakota state line during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection ~~(3)(b)~~ (2) for processing and marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

~~(b)~~(2) The department shall develop rules for selecting one Montana nonprofit organization to accept paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules for the marketing and sale of caviar under this section.

~~(c)~~(3) The department may enter into an agreement with the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2) specifying times, sites, and other conditions under which paddlefish eggs may be collected. The agreement must require the organization to maintain records of revenue collected and related expenses incurred and to make the records available to the department and the legislative auditor upon request.

~~(d) (i)~~(4) (a) Thirty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing must be deposited in a state special revenue fund established for the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery, including fishing access, administration, improvements, habitat, and fisheries management, or to provide information to the public regarding fishing in eastern Montana, which could include the design and construction of interpretive displays.

~~(ii)~~(b) Seventy percent of the proceeds from the sale of paddlefish egg caviar products in excess of the

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costs of collection, processing, and marketing must be paid to the nonprofit organization that processes and markets the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2), two area local government representatives, and two representatives of area anglers. The advisory committee shall solicit and review historical, cultural, recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission of its actions. Proceeds may be used as seed money for grants.

~~(4)~~(5) A person may possess and sell legally taken nongame fish, as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609."

Section 111. Section 87-4-609, MCA, is amended to read:

"87-4-609. Regulation of commercial taking of fish or aquatic organisms -- permit -- rulemaking authority. (1) The department shall regulate the taking, for sale or commercial distribution, of:

(a) crayfish for fishing bait;

(b) crayfish from private fish ponds regulated under 87-4-603;

(c) mysis shrimp;

(d) designated species of nongame fish in waters designated by the commission pursuant to 87-3-204;

(e) whitefish as authorized by statute; and

(f) other aquatic organisms.

(2) ~~It is unlawful for a person~~ In order to obtain a permit to take fish or aquatic organisms for ~~commercial purposes without obtaining a permit from the department. A permit~~ sale or commercial distribution, an applicant shall provide the department with sufficient details of the proposed operation ~~to take any fish or aquatic organism for sale or commercial distribution~~ to enable the department to evaluate any potential overharvest or conflict with existing fishing and recreational uses of the waters.

(3) The department may:

(a) deny a permit if it determines that there is substantial potential that the proposed operation may harm a fishery or conflict with existing recreational uses of the waters;

(b) condition a permit to restrict the method of taking, the location of the taking, and the quality and quantity of harvest to prevent overharvest or conflict with existing fishing and recreational uses of the waters; or

(c) require a permittee to submit harvest data to the department.

(4) A permit may be revoked for a violation of the conditions of the permit.

(5) The department may adopt rules for the regulation of commercial taking of fish or aquatic organisms including but not limited to the setting of seasons, methods of taking, quantities of harvest, size limitations, and reporting requirements, to prevent overharvest or conflict with fishing and recreational uses of the waters."

Section 112. Section 87-4-803, MCA, is amended to read:

"87-4-803. Permits. (1) The department may grant permits for roadside menageries, wild animal menageries, and zoos. ~~It is unlawful for any person to operate a roadside menagerie or wild animal menagerie without a permit.~~ Application for a permit must be made to the director on a form prescribed by the director. The annual permit fee for five or less animals is $10. The annual permit fee for more than five animals is $25. Permits expire on December 31 but may be renewed upon payment of the annual fee and submission of a renewal application. This section does not apply to the United States, the state of Montana, or any county or city. A person who subscribes to any false statement in application for a permit is ~~guilty of a misdemeanor~~ subject to the provisions of [section 58] and may be denied a permit.

(2) (a) A permit application for a roadside menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications;

(v) a copy of all required federal permits for exhibition of wild animals; and

(vi) a copy of a liability insurance policy to cover bodily injury or property damage.

(b) A permit application for a wild animal menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications; and

(v) information demonstrating that the applicant is responsible.

(c) A permit application for a zoo must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a copy of the nonprofit corporation documents approved by the secretary of state's office;

(iv) a copy of the required federal permits for exhibition of wild animals; and

(v) if applicable, a copy of the American zoo and aquarium association accreditation program specific to the facility.

(3) Renewal applications for roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

(4) A permit may not be granted by the department until it has satisfactorily verified that the provisions for housing and caring for the animals and for protecting the public are proper and adequate and in accordance with the standards established by the department.

(5) A permit is not transferable to another person."

Section 113. Section 87-4-807, MCA, is amended to read:

"87-4-807. Enforcement and penalty. (1) The provisions of this part ~~shall~~ must be enforced by any warden or any other legally authorized officer. Any person violating the provisions of this part shall upon conviction be punished as provided in ~~87-1-102~~ [section 58], and at the discretion of the court, the permit and all rights and privileges inherent ~~therein~~ in the permit may be forfeited.

(2) Any animals being kept in violation of any section of this part may be confiscated or ordered disposed of at the discretion of the director. The permittee may appeal to the commission within 20 days of the date of the order to confiscate, and the commission shall hold a hearing on ~~such~~ an appeal. ~~, and the~~ The decision of the commission ~~shall be~~ is final."

Section 114. Section 87-4-903, MCA, is amended to read:

"87-4-903. Game bird farm license required. Except as provided in 87-4-902, a person may not own, control, or propagate game birds unless the person holds a current game bird farm license from the department. A person who violates this section is subject to the penalties provided in [section 59]."

Section 115. Section 87-4-915, MCA, is amended to read:

"87-4-915. Field trials -- permits. (1) As used in this section, "field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(2) ~~A person may not conduct a field trial unless the person has a permit under this section.~~ Applicants for a permit to conduct a field trial shall apply to the director upon a form furnished by the department for that purpose. The application must be signed and sworn to by the applicant, stating the applicant's name and address, the name and address of any national affiliate, the place for the field trial clearly defined, the date or dates of the proposed field trial, whether live birds are to be used, and any other information required by the director to determine the advisability of granting permission for the proposed field trial. The application must state that if a permit is granted, the applicant will carefully flush all wild game birds from fields used for the field trial each day before the field trial begins and will not permit dogs to run free in fields that have not been carefully flushed. The application must be presented to the director not less than 20 days prior to the date proposed for the field trial.

(3) The director may refuse any application that the director determines is not in the best interests of the protection, preservation, propagation, and conservation of game birds in this state. Any denial by the director of an application must state the reasons for denial and must be mailed to the applicant within 10 days of receipt of the application.

~~(4) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any of the terms of the permit.~~

~~(5)~~(4) All live game birds used in a field trial must be tagged before being planted or released and may be planted or released only in the presence of a representative of the department. If an untagged bird is shot during any field trial, the person to whom the permit was issued shall immediately replace it with a live bird.

~~(6)~~(5) (a) Dogs may be trained in open fields at any time without permission of the director only if:

(i) live game birds are not killed or captured during training; and

(ii) the training is more than 1 mile from any bird nesting or management area or game preserve.

(b) A person may train dogs with a method that will kill birds acquired from a game bird farm only after receiving a written permit from the department and only in compliance with the terms of the permit."

Section 116. Section 87-4-1002, MCA, is amended to read:

"87-4-1002. Fur farm license required -- applicability. (1) Except as provided in subsection (2), a person may not own, control, or propagate furbearers unless the person holds a current fur farm license from the department.

(2) This part does not apply to the ownership, control, or propagation of furbearers if the ownership, control, or propagation is not for the sale or conveyance of furbearers or parts of furbearers.

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(3) A person who violates this section is subject to the penalties provided in [section 60]."

Section 117. Section 87-5-204, MCA, is amended to read:

"87-5-204. License and rules for falconry and raptors. (1) The commission shall adopt specific rules for the keeping of records and for the trapping, taking, possession by residents and nonresidents, selling or transfer of possession, or training of raptors used in the practice of falconry and may authorize the issuance of licenses to persons for the practice of falconry and set license qualifications and fees. Rules adopted under this section are intended to conform to standards and regulations adopted under federal law by being at least as restrictive. ~~Except as provided in 87-5-210, it is unlawful for any person to possess a raptor or to train a raptor in the practice of falconry without a license.~~

(2) Licensees must have in possession a valid falconer's license when engaged in the practice of falconry. In addition, falconers loosing raptors at game birds must have in possession a valid resident or nonresident upland game bird license or waterfowl stamp, as appropriate.

(3) Falconry licenses or permits are not transferable and may be revoked for due cause at any time by the department."

Section 118. Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the provisions on importation or introduction of wildlife contained in the following laws:

(1) Title 80;

(2) ~~87-3-207~~ [section 20(1)(a)] and 87-3-208;

(3) 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)], 87-3-210, and 87-3-225 through 87-3-227;

(4) 87-4-422;

(5) 87-5-112;

(6) 87-5-205;

(7) 87-5-302; or

(8) Title 81, chapter 2."

Section 119. Section 87-5-721, MCA, is amended to read:

"**87-5-721. Penalty -- license and permit revocation and denial.** (1) Except as provided in subsection (2), a person ~~who violates a provision~~ convicted of a violation of this part ~~is guilty of a misdemeanor punishable as provided in 87-1-102, and~~ shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than $500 or more than $5,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend $500 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit ~~from the date of conviction or forfeiture~~ any current hunting, fishing, or trapping license issued ~~under this title~~ by this state and the privilege to hunt, fish, or trap in this state for not less than 24 months from the date of conviction or forfeiture. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for ~~the lifetime of that person~~ life.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within a time set by the department, not to exceed 6 months. The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife."

NEW SECTION. **Section 120. Repealer.** The following sections of the Montana Code Annotated are repealed:

87-1-102. Penalties -- violation of state law.
87-1-108. Suspension of privileges for failure to comply with citation or sentence.
87-1-109. Fish and game violation as inchoate offense.
87-1-110. Fish and wildlife code not to supersede criminal code -- statute of limitations.
87-1-111. Restitution for illegal killing or possession of certain wildlife.
87-1-112. Finding required.
87-1-113. Payment -- penalty for nonpayment.
87-1-114. Disposition of proceeds.
87-1-115. Restitution for illegal killing or possession of trophy wildlife.
87-1-121. Remedial hunter education program -- sentencing.
87-1-125. Violation of orders or rules -- penalties.
87-1-208. Inspection at checking station.
87-1-231. Tattooing of bears, wolves, tigers, mountain lions, or coyotes -- when required -- penalty.
87-2-103. License required.
87-2-109. Carrying and exhibiting license and identification.
87-2-110. Alteration, attachment, or transfer of license.
87-2-112. Forfeiture of license or permit for littering.
87-2-114. Misdemeanor and felony possession of hunting or fishing license or permit -- penalties.
87-2-120. Lawful means of angling or fishing.
87-2-203. Unlawful sales of licenses.
87-2-205. False statement in license application.
87-2-509. Tagging of carcasses of game animals.
87-2-604. Permission of landowner required.
87-2-804. Revocation of exception.
87-3-101. General restrictions.
87-3-102. Waste of fish or game.
87-3-103. Limit on number of game animals hunted or killed.
87-3-104. Unlawful to hunt or fish during closed season.
87-3-105. Unlawful to import for introduction or to introduce or transplant wildlife.
87-3-107. Use of snare lawful under certain conditions.

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87-3-108.	Restrictions on use of reproduced sounds.
87-3-109.	Attempting to take simulated wildlife decoy -- penalty.
87-3-111.	Unlawful possession, shipping, or transportation of game fish, birds, game animals, or fur-bearing animals -- exceptions -- penalties.
87-3-112.	Possession and unlawful use of fishing implements.
87-3-116.	Outfitting without license -- penalties -- disposition of fines.
87-3-117.	Definitions of lawfully killed, captured, or taken and unlawfully killed, captured, or taken.
87-3-118.	Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty.
87-3-123.	Use of silencers or mufflers on firearms forbidden.
87-3-124.	Dogs -- restrictions on hunting -- penalty for chasing hooved game animals.
87-3-125.	Restrictions on use of motor vehicles while hunting.
87-3-130.	Taking of wildlife to protect persons or livestock.
87-3-134.	Restriction on use of electronic motion-tracking device while hunting.
87-3-135.	Restrictions on use of archery equipment.
87-3-141.	Definitions.
87-3-142.	Harassment prohibited.
87-3-143.	Penalty.
87-3-144.	Injunction.
87-3-205.	Unlawful to possess net or seine -- exceptions.
87-3-206.	Unlawful to use explosives or poisons in taking fish.
87-3-207.	Unlawful to place caged fish in public waters -- exception.
87-3-209.	Intrastate movement of diseased fish or eggs unlawful.
87-3-301.	Shotgun loads regulated by department.
87-3-302.	Colored garments required on big game hunters.
87-3-304.	Landowner's permission required for hunting -- penalty.
87-3-305.	Unlawful to hunt deer within city or town boundaries.
87-3-306.	Unlawful to destroy evidence of sex.
87-3-307.	Contests based on size of game animals unlawful.
87-3-401.	Restrictions on rifles for bird hunting.
87-3-402.	Unlawful to violate closed season on certain game birds.

87-3-404. Tagging of turkey.
87-3-405. Failure to tag turkey.
87-3-501. Open and closed season for fur-bearing animals -- exception.
87-3-503. Destruction of beaver and muskrat houses unlawful.
87-3-504. Metal tags required on traps.
87-3-505. Penalty.
87-3-506. Wasting of fur-bearing animals.
87-3-507. Unlawful to disturb traps or trapped animals belonging to another -- exception.
87-4-608. Unlawful taking of crayfish -- penalty.
87-4-1014. Unlawful capture.

NEW SECTION. **Section 121. Codification instruction.** (1) [Sections 1 through 80] are intended to be codified as an integral part of Title 87, and the provisions of Title 87 apply to [sections 1 through 80].

(2) [Section 81] is intended to be codified as an integral part of Title 87, chapter 4, part 5, and the provisions of Title 87, chapter 4, part 5, apply to [section 81].

COORDINATION SECTION. **SECTION 122. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 337 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTIONS 2 AND 4 OF HOUSE BILL NO. 337] ARE VOID AND [SECTION 1 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 1. DEFINITIONS.** UNLESS THE CONTEXT REQUIRES OTHERWISE, IN [SECTIONS 1 THROUGH 80], THE FOLLOWING DEFINITIONS APPLY:

(1) "ALTERNATIVE LIVESTOCK" MEANS A PRIVATELY OWNED CARIBOU, WHITE-TAILED DEER, MULE DEER, ELK, MOOSE, ANTELOPE, MOUNTAIN SHEEP, OR MOUNTAIN GOAT INDIGENOUS TO THE STATE OF MONTANA, A PRIVATELY OWNED REINDEER, OR ANY OTHER CLOVEN-HOOFED UNGULATE AS CLASSIFIED BY THE DEPARTMENT. BLACK BEAR AND MOUNTAIN LION MUST BE REGULATED PURSUANT TO TITLE 87, CHAPTER 4, PART 8.

(2) "ALTERNATIVE LIVESTOCK RANCH" MEANS THE ENCLOSED LAND AREA UPON WHICH ALTERNATIVE LIVESTOCK MAY BE KEPT FOR PURPOSES OF OBTAINING, REARING IN CAPTIVITY, KEEPING, OR SELLING ALTERNATIVE LIVESTOCK OR PARTS OF ALTERNATIVE LIVESTOCK, AS AUTHORIZED UNDER TITLE 87, CHAPTER 4, PART 4.

(3) (A) "BAIT" MEANS ANY ANIMAL MATTER, VEGETABLE MATTER, OR NATURAL OR ARTIFICIAL SCENT PLACED IN AN AREA INHABITED BY WILDLIFE FOR THE PURPOSE OF ATTRACTING GAME ANIMALS OR GAME BIRDS.

(B) THE TERM DOES NOT INCLUDE:

(I) DECOYS, SILHOUETTES, OR OTHER REPLICAS OF WILDLIFE BODY FORMS;

(II) SCENTS USED ONLY TO MASK HUMAN ODOR; OR

(III) TYPES OF SCENTS THAT ARE APPROVED BY THE COMMISSION FOR ATTRACTING GAME ANIMALS OR GAME BIRDS.

(4) "CLOSED SEASON" MEANS THE TIME DURING WHICH GAME BIRDS, FISH, GAME ANIMALS, AND FUR-BEARING ANIMALS MAY NOT BE LAWFULLY TAKEN.

(5) "CLOVEN-HOOFED UNGULATE" MEANS AN ANIMAL OF THE ORDER ARTIODACTYLA, EXCEPT A MEMBER OF THE FAMILIES SUIDAE, CAMELIDAE, OR HIPPOPOTAMIDAE. THE TERM DOES NOT INCLUDE DOMESTIC PIGS, DOMESTIC COWS, DOMESTIC YAKS, DOMESTIC SHEEP, DOMESTIC GOATS THAT ARE NOT NATURALLY OCCURRING IN THE WILD IN THEIR COUNTRY OF ORIGIN, OR BISON.

(6) "CONVICTION" MEANS A JUDGMENT OR SENTENCE ENTERED FOLLOWING A GUILTY PLEA, A NOLO CONTENDERE PLEA, A VERDICT OR FINDING OF GUILTY RENDERED BY A LEGALLY CONSTITUTED JURY OR BY A COURT OF COMPETENT JURISDICTION AUTHORIZED TO TRY THE CASE WITHOUT A JURY, OR A FORFEITURE OF BAIL OR COLLATERAL DEPOSITED TO SECURE THE PERSON'S APPEARANCE IN COURT THAT HAS NOT BEEN VACATED.

(7) "FIELD TRIAL" MEANS AN EXAMINATION TO DETERMINE THE ABILITY OF DOGS TO POINT, FLUSH, OR RETRIEVE GAME BIRDS.

(8) "FISHING" MEANS TO TAKE FISH OR THE ACT OF A PERSON POSSESSING ANY INSTRUMENT, ARTICLE, OR SUBSTANCE FOR THE PURPOSE OF TAKING FISH IN ANY LOCATION THAT A FISH MIGHT INHABIT.

(9) (A) "FUR DEALER" MEANS A PERSON ENGAGING IN, CARRYING ON, OR CONDUCTING WHOLLY OR IN PART THE BUSINESS OF BUYING OR SELLING, TRADING, OR DEALING WITHIN THE STATE OF MONTANA IN THE SKINS OR PELTS OF FUR-BEARING ANIMALS OR PREDATORY ANIMALS.

(B) IF A FUR DEALER RESIDES IN MONTANA OR IF THE FUR DEALER'S PRINCIPAL PLACE OF BUSINESS IS WITHIN THE STATE OF MONTANA, THE FUR DEALER IS CONSIDERED A RESIDENT FUR DEALER. ALL OTHER FUR DEALERS ARE CONSIDERED NONRESIDENT FUR DEALERS.

(10) "FUR FARM" MEANS ENCLOSED LAND UPON WHICH FURBEARERS ARE KEPT FOR PURPOSES OF OBTAINING, REARING IN CAPTIVITY, KEEPING, AND SELLING FURBEARERS OR PARTS OF FURBEARERS.

(11) (A) "FUR-BEARING ANIMAL" OR "FURBEARER" MEANS MARTEN OR SABLE, OTTER, MUSKRAT, FISHER, MINK, BOBCAT, LYNX, WOLVERINE, NORTHERN SWIFT FOX, AND BEAVER.

(B) AS USED IN TITLE 87, CHAPTER 4, PART 10, "FURBEARER" DOES NOT INCLUDE FOX OR MINK.

(12) "GAME ANIMAL" MEANS DEER, ELK, MOOSE, ANTELOPE, CARIBOU, MOUNTAIN SHEEP, MOUNTAIN GOAT, MOUNTAIN LION, BEAR, AND WILD BUFFALO.

(13) "GAME FISH" MEANS ALL SPECIES OF THE FAMILY SALMONIDAE (CHARS, TROUT, SALMON, GRAYLING, AND WHITEFISH); ALL SPECIES OF THE GENUS STIZOSTEDION (SANDPIKE OR SAUGER AND WALLEYED PIKE OR YELLOWPIKE PERCH); ALL SPECIES OF THE GENUS ESOX (NORTHERN PIKE, PICKEREL, AND MUSKELLUNGE); ALL SPECIES OF THE GENUS MICROPTERUS (BASS); ALL SPECIES OF THE GENUS POLYODON (PADDLEFISH); ALL SPECIES OF THE FAMILY ACIPENSERIDAE (STURGEON); ALL SPECIES OF THE GENUS LOTA (BURBOT OR LING); THE SPECIES PERCA FLAVESCENS (YELLOW PERCH); ALL SPECIES OF THE GENUS POMOXIS (CRAPPIE); AND THE SPECIES ICTALURUS PUNCTATUS (CHANNEL CATFISH).

(14) "HUNT" MEANS TO PURSUE, SHOOT, WOUND, KILL, CHASE, LURE, POSSESS, OR CAPTURE OR THE ACT OF A PERSON POSSESSING A WEAPON, AS DEFINED IN 45-2-101, OR USING A DOG OR A BIRD OF PREY FOR THE PURPOSE OF SHOOTING, WOUNDING, KILLING, POSSESSING, OR CAPTURING WILDLIFE PROTECTED BY THE LAWS OF THIS STATE IN ANY LOCATION THAT WILDLIFE MAY INHABIT, WHETHER OR NOT THE WILDLIFE IS THEN OR SUBSEQUENTLY TAKEN. THE TERM INCLUDES AN ATTEMPT TO TAKE BY ANY MEANS, INCLUDING BUT NOT LIMITED TO PURSUING, SHOOTING, WOUNDING, KILLING, CHASING, LURING, POSSESSING, OR CAPTURING.

(15) "KNOWINGLY" HAS THE MEANING PROVIDED IN 45-2-101.

(16) "LIVESTOCK" INCLUDES OSTRICHES, RHEAS, AND EMUS.

(17) "MIGRATORY GAME BIRD" MEANS WATERFOWL, INCLUDING WILD DUCKS, WILD GEESE, BRANT, AND SWANS; CRANES, INCLUDING LITTLE BROWN AND SANDHILL; RAILS, INCLUDING COOTS; WILSON'S SNIPES OR JACKSNIPES; AND MOURNING DOVES.

(18) "NEGLIGENTLY" HAS THE MEANING PROVIDED IN 45-2-101.

(19) "NONGAME WILDLIFE" MEANS ANY WILD MAMMAL, BIRD, AMPHIBIAN, REPTILE, FISH, MOLLUSK, CRUSTACEAN, OR OTHER ANIMAL NOT OTHERWISE LEGALLY CLASSIFIED BY STATUTE OR REGULATION OF THIS STATE.

(20) "OPEN SEASON" MEANS THE TIME DURING WHICH GAME BIRDS, FISH, AND GAME AND FUR-BEARING ANIMALS MAY BE LAWFULLY TAKEN.

(21) "PARTICIPATING STATE" MEANS ANY STATE THAT ENACTS LEGISLATION TO BECOME A MEMBER OF THE INTERSTATE WILDLIFE VIOLATOR COMPACT.

(22) "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, PARTNERSHIP, AND CORPORATION.

(23) "POSSESSION" HAS THE MEANING PROVIDED IN 45-2-101.

(24) "PREDATORY ANIMAL" MEANS COYOTE, WEASEL, SKUNK, AND CIVET CAT.

(25) "PURPOSELY" HAS THE MEANING PROVIDED IN 45-2-101.

(26) "RAPTOR" MEANS ALL BIRDS OF THE ORDERS FALCONIFORMES AND STRIGIFORMES, COMMONLY CALLED FALCONS, HAWKS, EAGLES, OSPREYS, AND OWLS.

(27) "RESIDENT" HAS THE MEANING PROVIDED IN 87-2-102.

(28) "ROADSIDE MENAGERIE" MEANS ANY PLACE WHERE ONE OR MORE WILD ANIMALS ARE KEPT IN CAPTIVITY FOR THE EVIDENT PURPOSE OF EXHIBITION OR ATTRACTING TRADE, ON OR OFF THE FACILITY PREMISES. IT DOES NOT INCLUDE THE EXHIBITION OF ANY ANIMAL BY AN EDUCATIONAL INSTITUTION OR BY A TRAVELING THEATRICAL EXHIBITION OR CIRCUS BASED OUTSIDE OF MONTANA.

(29) "SALE" MEANS A CONTRACT BY WHICH A PERSON:

(A) TRANSFERS AN INTEREST IN EITHER GAME OR FISH FOR A PRICE; OR

(B) TRANSFERS, BARTERS, OR EXCHANGES AN INTEREST EITHER IN GAME OR FISH FOR AN ARTICLE OR THING OF VALUE.

(30) "SUPPLEMENTAL FEED ATTRACTANT" MEANS ANY FOOD, GARBAGE, OR OTHER ATTRACTANT FOR GAME ANIMALS. THE TERM DOES NOT INCLUDE GROWING PLANTS OR PLANTS HARVESTED FOR THE FEEDING OF LIVESTOCK.

(31) "TAXIDERMIST" MEANS A PERSON WHO CONDUCTS A BUSINESS FOR THE PURPOSE OF MOUNTING, PRESERVING, OR PREPARING ALL OR PART OF THE DEAD BODIES OF ANY WILDLIFE.

(32) "TRAP" MEANS TO TAKE OR PARTICIPATE IN THE TAKING OF ANY WILDLIFE PROTECTED BY STATE LAW BY SETTING OR PLACING ANY MECHANICAL DEVICE, SNARE, DEADFALL, PIT, OR DEVICE INTENDED TO TAKE WILDLIFE OR TO REMOVE WILDLIFE FROM ANY OF THESE DEVICES.

(33) "UPLAND GAME BIRDS" MEANS SHARPTAILED GROUSE, BLUE GROUSE, SPRUCE (FRANKLIN) GROUSE, PRAIRIE CHICKEN, SAGE HEN OR SAGE GROUSE, RUFFED GROUSE, RING-NECKED PHEASANT, HUNGARIAN PARTRIDGE, PTARMIGAN, WILD TURKEY, AND CHUKAR PARTRIDGE.

(34) "WILD ANIMAL" MEANS AN ANIMAL THAT IS WILD BY NATURE AS DISTINGUISHED FROM COMMON DOMESTIC ANIMALS, WHETHER THE ANIMAL WAS BRED OR REARED IN CAPTIVITY, AND INCLUDES BIRDS AND REPTILES.

(35) "WILD ANIMAL MENAGERIE" MEANS ANY PLACE WHERE ONE OR MORE BEARS OR LARGE CATS, INCLUDING COUGARS, LIONS, TIGERS, JAGUARS, LEOPARDS, PUMAS, CHEETAHS, OCELOTS, AND HYBRIDS OF THOSE LARGE CATS, ARE KEPT IN CAPTIVITY FOR USE OTHER THAN PUBLIC EXHIBITION.

(36) "WILD BUFFALO" MEANS BUFFALO OR BISON THAT HAVE NOT BEEN REDUCED TO CAPTIVITY.

(37) "ZOO" MEANS ANY ZOOLOGICAL GARDEN CHARTERED AS A NONPROFIT CORPORATION BY THE STATE OR ANY FACILITY PARTICIPATING IN THE AMERICAN ZOO AND AQUARIUM ASSOCIATION ACCREDITATION PROGRAM FOR THE

PURPOSE OF EXHIBITING WILD ANIMALS FOR PUBLIC VIEWING."

COORDINATION SECTION. **SECTION 123. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 536 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTIONS 1 OF HOUSE BILL NO. 536], AMENDING 87-3-111, IS VOID AND [SECTION 8 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 8. UNLAWFUL POSSESSION, SHIPPING, OR TRANSPORTATION OF GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL.** (1) A PERSON MAY NOT POSSESS, SHIP, OR TRANSPORT ALL OR PART OF ANY GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL THAT WAS UNLAWFULLY KILLED, CAPTURED, OR TAKEN, WHETHER KILLED, CAPTURED, OR TAKEN IN MONTANA OR OUTSIDE OF MONTANA.

(2) THIS SECTION DOES NOT PROHIBIT THE POSSESSION, SHIPPING, OR TRANSPORTATION OF:

(A) HIDES, HEADS, OR MOUNTS OF LAWFULLY KILLED, CAPTURED, OR TAKEN GAME FISH, BIRDS, GAME ANIMALS, OR FUR-BEARING ANIMALS, EXCEPT THAT THE SALE OR PURCHASE OF A HIDE, HEAD, OR MOUNT OF A GRIZZLY BEAR IS PROHIBITED, EXCEPT AS PROVIDED BY FEDERAL LAW;

(B) NATURALLY SHED ANTLERS OR THE ANTLERS WITH A SKULL OR PORTION OF A SKULL ATTACHED FROM A GAME ANIMAL THAT HAS DIED FROM NATURAL CAUSES AND THAT HAS NOT BEEN UNLAWFULLY KILLED, CAPTURED, OR TAKEN OR ACCIDENTALLY KILLED;

(C) THE BONES OF AN ELK, ANTELOPE, MOOSE, OR DEER THAT HAS DIED FROM NATURAL CAUSES AND THAT HAS NOT BEEN UNLAWFULLY KILLED, CAPTURED, OR TAKEN OR ACCIDENTALLY KILLED;

(D) PADDLEFISH ROE AS CAVIAR UNDER THE PROVISIONS OF 87-4-601; OR

(E) CAPTIVE-REARED MIGRATORY WATERFOWL.

(3) A PERSON MAY NOT POSSESS, SHIP, OR TRANSPORT LIVE FISH AWAY FROM THE BODY OF WATER IN WHICH THE FISH WERE TAKEN EXCEPT:

(A) AS PROVIDED IN TITLE 87, CHAPTER 4, PART 6, OR AS SPECIFICALLY PERMITTED BY THE LAWS OF THIS STATE;

(B) FISH SPECIES APPROVED BY THE COMMISSION FOR USE AS LIVE BAIT AND SUBJECT TO ANY RESTRICTIONS IMPOSED BY THE COMMISSION; OR

(C) WITHIN THE BOUNDARIES OF THE EASTERN MONTANA FISHING DISTRICT, AS ESTABLISHED BY COMMISSION REGULATIONS.

(4) THE POSSESSION OF ALL OR PART OF A DEAD GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL IS PRIMA FACIE EVIDENCE THAT THE PERSON OR PERSONS IN WHOSE POSSESSION THE FISH, BIRD, OR ANIMAL IS FOUND KILLED, CAPTURED, OR TOOK THE FISH, BIRD, OR ANIMAL.

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(5) THE VALUE OF A GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL THAT IS UNLAWFULLY POSSESSED SHIPPED, OR TRANSPORTED MUST BE DETERMINED FROM THE SCHEDULES OF RESTITUTION VALUES IN [SECTIONS 68 AND 69]. THE VALUE OF GAME FISH, BIRDS, GAME ANIMALS, OR FUR-BEARING ANIMALS THAT ARE UNLAWFULLY POSSESSED SHIPPED, OR TRANSPORTED PURSUANT TO A COMMON SCHEME, AS DEFINED IN 45-2-101, OR AS PART OF THE SAME TRANSACTION, AS DEFINED IN 46-1-202, MAY BE AGGREGATED IN DETERMINING THE VALUE.

(6) THE FOLLOWING PENALTIES APPLY FOR A VIOLATION OF THIS SECTION:

(A) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH UNLAWFUL POSSESSION, SHIPPING, OR TRANSPORTATION OF A GAME FISH OR BIRD AND IF THE VALUE OF ALL OR PART OF THE GAME FISH OR BIRD OR COMBINATION THEREOF DOES NOT EXCEED $1,000, THE PERSON SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE OR TO USE STATE LANDS, AS DEFINED IN 77-1-101, FOR RECREATIONAL PURPOSES FOR A PERIOD OF TIME SET BY THE COURT.

(B) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH UNLAWFUL POSSESSION OR TRANSPORTATION OF A MOUNTAIN SHEEP, MOOSE, WILD BUFFALO, CARIBOU, MOUNTAIN GOAT, BLACK BEAR, OR GRIZZLY BEAR OR ANY PART OF THESE ANIMALS AND IF THE VALUE OF ALL OR PART OF THE ANIMAL OR COMBINATION THEREOF DOES NOT EXCEED $1,000, THE PERSON SHALL BE FINED NOT LESS THAN $500 OR MORE THAN $2,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON SHALL FORFEIT ANY CURRENT HUNTING, FISHING, RECREATIONAL USE, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR 30 MONTHS FROM THE DATE OF CONVICTION OR FORFEITURE UNLESS THE COURT IMPOSES A LONGER PERIOD.

(C) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH UNLAWFUL POSSESSION OR TRANSPORTATION OF A DEER, ANTELOPE, ELK, OR MOUNTAIN LION OR ANY PART OF THESE ANIMALS AND IF THE VALUE OF ALL OR PART OF THE ANIMAL OR COMBINATION THEREOF DOES NOT EXCEED $1,000, THE PERSON SHALL BE FINED NOT LESS THAN $300 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON SHALL FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR 24 MONTHS FROM THE DATE OF CONVICTION OR FORFEITURE UNLESS THE COURT IMPOSES A LONGER PERIOD.

(D) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH UNLAWFUL SHIPPING OF A MOUNTAIN SHEEP, MOOSE, WILD BUFFALO, CARIBOU, MOUNTAIN GOAT, BLACK BEAR, GRIZZLY BEAR, DEER, ANTELOPE,

ELK, OR MOUNTAIN LION OR ANY PART OF THESE ANIMALS AND IF THE VALUE OF ALL OR PART OF THE ANIMAL OR COMBINATION THEREOF DOES NOT EXCEED $1,000, THE PERSON SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE OR TO USE STATE LANDS, AS DEFINED IN 77-1-101, FOR RECREATIONAL PURPOSES FOR A PERIOD OF TIME SET BY THE COURT.

(E) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH UNLAWFUL POSSESSION, SHIPPING, OR TRANSPORTATION OF A FUR-BEARING ANIMAL OR PELT OF A FUR-BEARING ANIMAL AND IF THE VALUE OF ALL OR PART OF THE ANIMAL OR COMBINATION THEREOF DOES NOT EXCEED $1,000, THE PERSON SHALL BE FINED NOT LESS THAN $100 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON SHALL FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR 24 MONTHS FROM THE DATE OF CONVICTION OR FORFEITURE UNLESS THE COURT IMPOSES A LONGER PERIOD, AND ANY PELTS POSSESSED UNLAWFULLY MUST BE CONFISCATED.

(F) IF A PERSON IS CONVICTED UNDER THIS SECTION OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH A VIOLATION OF THIS SECTION AND IF THE VALUE OF ALL OR PART OF THE GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL OR COMBINATION THEREOF EXCEEDS $1,000, THE PERSON SHALL BE FINED NOT MORE THAN $50,000 OR BE IMPRISONED IN THE STATE PRISON FOR A TERM NOT TO EXCEED 5 YEARS, OR BOTH. IN ADDITION, THE PERSON SHALL FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE OR PERMIT ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR NOT LESS THAN 3 YEARS UP TO A REVOCATION FOR LIFE FROM THE DATE OF CONVICTION.

(7) A PERSON CONVICTED OF UNLAWFUL POSSESSION OF MORE THAN DOUBLE THE LEGAL BAG LIMIT MAY BE SUBJECT TO THE ADDITIONAL PENALTIES PROVIDED IN [SECTION 63].

(8) AS USED IN THIS SECTION:

(A) "LAWFULLY KILLED, CAPTURED, OR TAKEN" MEANS KILLED, CAPTURED, OR TAKEN IN CONFORMANCE WITH THIS TITLE, THE REGULATIONS ADOPTED BY THE COMMISSION, AND THE RULES ADOPTED BY THE DEPARTMENT UNDER AUTHORITY OF THIS TITLE; AND

(B) "UNLAWFULLY KILLED, CAPTURED, OR TAKEN" MEANS NOT LAWFULLY KILLED, CAPTURED, OR TAKEN.

(9) A VIOLATION OF THIS SECTION MAY ALSO RESULT IN AN ORDER TO PAY RESTITUTION PURSUANT TO [SECTIONS 67 THROUGH 69]."

COORDINATION SECTION. **SECTION 124. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 336 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 3 OF HOUSE BILL NO. 336], AMENDING 87-3-102, IS VOID AND [SECTION 11 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 11. WASTE OF GAME ANIMAL, GAME BIRD, OR GAME FISH.** (1) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON RESPONSIBLE FOR THE DEATH OF ANY GAME ANIMAL, GAME BIRD, OR GAME FISH SUITABLE FOR FOOD MAY NOT PURPOSELY OR KNOWINGLY WASTE THE GAME BY:

(A) DETACHING OR REMOVING ONLY THE HEAD, HIDE, ANTLERS, TUSKS, OR TEETH OR ANY OR ALL OF THESE PARTS FROM THE CARCASS OF A GAME ANIMAL;

(B) TRANSPORTING, HANGING, OR STORING THE CARCASS IN A MANNER THAT RENDERS IT UNFIT FOR HUMAN CONSUMPTION; OR

(C) ABANDONING THE CARCASS OF A GAME ANIMAL OR ANY PORTION OF THE CARCASS SUITABLE FOR FOOD IN THE FIELD.

(2) A PERSON IN POSSESSION OF A GAME ANIMAL OR GAME ANIMAL PARTS, A GAME BIRD, OR A GAME FISH SUITABLE FOR FOOD MAY NOT PURPOSELY OR KNOWINGLY WASTE THE GAME BY:

(A) TRANSPORTING, STORING, OR HANGING THE ANIMAL, BIRD, OR FISH IN A MANNER THAT RENDERS IT UNFIT FOR HUMAN CONSUMPTION; OR

(B) DISPOSING OF OR ABANDONING ANY PORTION OF THE ANIMAL, BIRD, OR FISH THAT IS SUITABLE FOR FOOD.

(3) A PERSON RESPONSIBLE FOR THE DEATH OF A MOUNTAIN LION, EXCEPT AS PROVIDED IN [SECTION 6], MAY NOT ABANDON THE HEAD OR HIDE IN THE FIELD.

(4) A PERSON RESPONSIBLE FOR THE DEATH OF A GRIZZLY BEAR WASTES THE GAME IF THE PERSON ABANDONS THE HEAD OR HIDE OR ANY PARTS REQUIRED BY DEPARTMENT OR COMMISSION REGULATION FOR SCIENTIFIC PURPOSES PURSUANT TO 87-3-110.

(5) FOR THE PURPOSES OF THIS SECTION, THE MEAT OF A GRIZZLY BEAR OR A BLACK BEAR THAT IS FOUND TO BE INFECTED WITH TRICHINOSIS IS NOT CONSIDERED TO BE SUITABLE FOR FOOD.

(6) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION MAY BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY JAIL FOR A TERM NOT TO EXCEED 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON, UPON CONVICTION OR FORFEITURE OF BOND OR BAIL, SHALL:

(A) FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR 24 MONTHS FROM THE DATE OF CONVICTION OR FORFEITURE UNLESS THE

COURT IMPOSES A LONGER PERIOD; AND

(B) PAY RESTITUTION PURSUANT TO [SECTION 67 THROUGH 69].

(7) A PERSON CONVICTED OF WASTE OF GAME BY ABANDONMENT IN THE FIELD MAY BE SUBJECT TO THE ADDITIONAL PENALTIES PROVIDED IN [SECTION 63]."

COORDINATION SECTION. **SECTION 125. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 536 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2 OF HOUSE BILL NO. 536], AMENDING 87-3-118, IS VOID AND [SECTION 12 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 12. UNLAWFUL SALE OF GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL.** (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY SELL, PURCHASE, OR EXCHANGE ALL OR PART OF ANY GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL.

(2) THE VALUE OF THE GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL MUST BE DETERMINED FROM THE SCHEDULES OF RESTITUTION VALUES SET OUT IN [SECTIONS 68 AND 69]. THE VALUE OF GAME FISH, BIRDS, GAME ANIMALS, OR FUR-BEARING ANIMALS THAT ARE SOLD, PURCHASED, OR EXCHANGED PURSUANT TO A COMMON SCHEME, AS DEFINED IN 45-2-101, OR AS PART OF THE SAME TRANSACTION, AS DEFINED IN 46-1-202, MAY BE AGGREGATED IN DETERMINING THE VALUE.

(3) THIS SECTION DOES NOT PROHIBIT THE:

(A) SALE, PURCHASE, OR EXCHANGE OF HIDES, HEADS, OR MOUNTS OF GAME FISH, BIRDS, GAME ANIMALS, OR FUR-BEARING ANIMALS THAT HAVE BEEN LAWFULLY KILLED, CAPTURED, OR TAKEN, EXCEPT THAT THE SALE OR PURCHASE OF A HIDE, HEAD, OR MOUNT OF A GRIZZLY BEAR IS PROHIBITED, EXCEPT AS PROVIDED BY FEDERAL LAW;

(B) SALE, PURCHASE, OR EXCHANGE OF NATURALLY SHED ANTLERS OR THE ANTLERS WITH A SKULL OR PORTION OF A SKULL ATTACHED FROM A GAME ANIMAL THAT HAS DIED FROM NATURAL CAUSES AND THAT HAS NOT BEEN UNLAWFULLY KILLED, CAPTURED, OR TAKEN OR ACCIDENTALLY KILLED;

(C) SALE, PURCHASE, OR EXCHANGE OF THE BONES OF AN ELK, ANTELOPE, MOOSE, OR DEER THAT HAS DIED FROM NATURAL CAUSES AND THAT HAS NOT BEEN UNLAWFULLY KILLED, CAPTURED, OR TAKEN OR ACCIDENTALLY KILLED;

(D) DONATION, SALE, PURCHASE, OR EXCHANGE OF PADDLEFISH ROE AS CAVIAR UNDER THE PROVISIONS OF 87-4-601; OR

(E) SALE, PURCHASE, OR EXCHANGE OF CAPTIVE-REARED MIGRATORY WATERFOWL.

(4) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH A VIOLATION OF THIS SECTION AND IF THE VALUE OF ALL OR PART OF THE GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL OR

COMBINATION THEREOF DOES NOT EXCEED $1,000, THEN THE PERSON SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE OR PERMIT ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR A PERIOD SET BY THE COURT.

(5) IF A PERSON IS CONVICTED OR FORFEITS BOND OR BAIL AFTER BEING CHARGED WITH A VIOLATION OF THIS SECTION AND IF THE VALUE OF ALL OR PART OF THE GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL OR COMBINATION THEREOF EXCEEDS $1,000, THEN THE PERSON SHALL BE FINED NOT MORE THAN $50,000 OR BE IMPRISONED IN THE STATE PRISON FOR NOT MORE THAN 5 YEARS, OR BOTH. IN ADDITION, THE PERSON SHALL FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE OR PERMIT ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR NOT LESS THAN 3 YEARS UP TO A REVOCATION FOR LIFE FROM THE DATE OF CONVICTION.

(6) AS USED IN THIS SECTION:

(A) "LAWFULLY KILLED, CAPTURED, OR TAKEN" MEANS KILLED, CAPTURED, OR TAKEN IN CONFORMANCE WITH THIS TITLE, THE REGULATIONS ADOPTED BY THE COMMISSION, AND THE RULES ADOPTED BY THE DEPARTMENT UNDER AUTHORITY OF THIS TITLE; AND

(B) "UNLAWFULLY KILLED, CAPTURED, OR TAKEN" MEANS NOT LAWFULLY KILLED, CAPTURED, OR TAKEN."

COORDINATION SECTION. **SECTION 126. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 536 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 13 OF SENATE BILL NO. 124] IS VOID.

COORDINATION SECTION. **SECTION 127. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 135 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 1 OF SENATE BILL NO. 135], AMENDING 87-3-124, IS VOID AND [SECTION 36 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 36. UNLAWFUL USE OF DOG WHILE HUNTING.** (1) EXCEPT AS PROVIDED IN SUBSECTIONS (3) THROUGH (6), A PERSON MAY NOT:

(A) CHASE ANY GAME ANIMAL OR FUR-BEARING ANIMAL WITH A DOG; OR

(B) PURPOSELY, KNOWINGLY, OR NEGLIGENTLY PERMIT A DOG TO CHASE, STALK, PURSUE, ATTACK, OR KILL A HOOVED GAME ANIMAL. IF THE DOG IS NOT UNDER THE CONTROL OF AN ADULT AT THE TIME OF THE VIOLATION, THE OWNER OF THE DOG IS PERSONALLY RESPONSIBLE. A DEFENSE THAT THE DOG WAS ALLOWED TO RUN AT LARGE BY ANOTHER

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PERSON IS NOT ALLOWABLE UNLESS IT IS SHOWN THAT AT THE TIME OF THE VIOLATION, THE DOG WAS RUNNING AT LARGE WITHOUT THE CONSENT OF THE OWNER AND THAT THE OWNER TOOK REASONABLE PRECAUTIONS TO PREVENT THE DOG FROM RUNNING AT LARGE.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3)(D), A PEACE OFFICER, GAME WARDEN, OR OTHER PERSON AUTHORIZED TO ENFORCE THE MONTANA FISH AND GAME LAWS WHO WITNESSES A DOG CHASING, STALKING, PURSUING, ATTACKING, OR KILLING A HOOVED GAME ANIMAL MAY DESTROY THAT DOG ON PUBLIC LAND OR ON PRIVATE LAND AT THE REQUEST OF THE LANDOWNER WITHOUT CRIMINAL OR CIVIL LIABILITY.

(3) A PERSON MAY:

(A) TAKE GAME BIRDS DURING THE APPROPRIATE OPEN SEASON WITH THE AID OF A DOG;

(B) HUNT MOUNTAIN LIONS DURING THE WINTER OPEN SEASON, AS ESTABLISHED BY THE COMMISSION, WITH THE AID OF A DOG OR DOGS;

(C) HUNT BOBCATS DURING THE TRAPPING SEASON, AS ESTABLISHED BY THE COMMISSION, WITH THE AID OF A DOG OR DOGS; AND

(D) USE TRAINED OR CONTROLLED DOGS TO CHASE OR HERD AWAY GAME ANIMALS OR FUR-BEARING ANIMALS TO PROTECT HUMANS, LAWNS, GARDENS, LIVESTOCK, OR AGRICULTURAL PRODUCTS, INCLUDING GROWING CROPS AND STORED HAY AND GRAIN. THE DOG MAY NOT BE DESTROYED PURSUANT TO SUBSECTION (2).

(4) A RESIDENT WHO POSSESSES A CLASS D-3 RESIDENT HOUND TRAINING LICENSE MAY PURSUE MOUNTAIN LIONS AND BOBCATS WITH A DOG OR DOGS DURING A TRAINING SEASON FROM DECEMBER 2 OF EACH YEAR TO APRIL 14 OF THE FOLLOWING YEAR.

(5) (A) A PERSON WITH A VALID HUNTING LICENSE ISSUED PURSUANT TO TITLE 87, CHAPTER 2, MAY USE A DOG TO TRACK A WOUNDED GAME ANIMAL DURING AN APPROPRIATE OPEN SEASON. ANY PERSON USING A DOG IN THIS MANNER:

(I) SHALL MAINTAIN PHYSICAL CONTROL OF THE DOG AT ALL TIMES BY MEANS OF A MAXIMUM 50-FOOT LEAD ATTACHED TO THE DOG'S COLLAR OR HARNESS;

(II) DURING THE GENERAL SEASON, WHETHER HANDLING OR ACCOMPANYING THE DOG, SHALL WEAR HUNTER ORANGE MATERIAL PURSUANT TO 87-3-302;

(III) MAY CARRY ANY WEAPON ALLOWED BY LAW;

(IV) MAY DISPOSE OF THE WOUNDED GAME ANIMAL USING ANY WEAPON ALLOWED BY THE VALID HUNTING LICENSE; AND

(V) SHALL IMMEDIATELY TAG AN ANIMAL THAT HAS BEEN REDUCED TO POSSESSION IN ACCORDANCE WITH 87-2-509.

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(B) DOG HANDLERS TRACKING A WOUNDED GAME ANIMAL WITH A DOG ARE EXEMPT FROM LICENSING REQUIREMENTS UNDER TITLE 87, CHAPTER 2, AS LONG AS THEY ARE ACCOMPANIED BY THE LICENSED HUNTER WHO WOUNDED THE GAME ANIMAL.

(6) ANY PERSON OR ASSOCIATION ORGANIZED FOR THE PROTECTION OF GAME MAY RUN FIELD TRIALS AT ANY TIME UPON OBTAINING WRITTEN PERMISSION FROM THE DIRECTOR.

(7) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION, THE PERSON, UPON CONVICTION OR FORFEITURE OF BOND OR BAIL, MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE OR TO USE STATE LANDS, AS DEFINED IN 77-1-101, FOR RECREATIONAL PURPOSES FOR A PERIOD OF TIME SET BY THE COURT.

(8) A VIOLATION OF THIS SECTION MAY ALSO RESULT IN AN ORDER TO PAY RESTITUTION PURSUANT TO [SECTIONS 67 THROUGH 69]."

COORDINATION SECTION. **SECTION 128. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 336 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 4 OF HOUSE BILL NO. 336], AMENDING 87-3-506, IS VOID AND [SECTION 48 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 48. WASTE OF FUR-BEARING ANIMAL.** (1) A PERSON MAY NOT WASTE A FUR-BEARING ANIMAL BY PURPOSELY OR KNOWINGLY:

(A) FAILING TO PICK UP TRAPS OR SNARES AT THE END OF THE TRAPPING SEASON SO THAT THE PELT OF A FUR-BEARING ANIMAL IS WASTED;

(B) ATTENDING TRAPS OR SNARES SO THAT FUR-BEARING ANIMALS ARE WASTED; OR

(C) WASTING THE PELT OF ANY FUR-BEARING ANIMAL.

(2) THE DEPARTMENT SHALL ENFORCE THE PROVISIONS OF THIS SECTION.

(3) THE FOLLOWING ARE EXEMPT FROM THIS SECTION:

(A) FEDERAL, STATE, AND COUNTY PREDATOR CONTROL PROGRAMS; AND

(B) PELTS OF MUSKRAT AND BEAVER KILLED PURSUANT TO [SECTION 47(2)].

(4) AS USED IN THIS SECTION, "PELT" MEANS THE PELT, SKIN, OR FUR OF A FUR-BEARING ANIMAL.

(5) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE FINED NOT LESS THAN $50 OR MORE THAN $1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION,

A PERSON, UPON CONVICTION OR FORFEITURE OF BOND OR BAIL, SHALL:

(A) FORFEIT ANY CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR 24 MONTHS FROM THE DATE OF CONVICTION OR FORFEITURE UNLESS THE COURT IMPOSES A LONGER PERIOD; AND

(B) PAY RESTITUTION PURSUANT TO [SECTION 67 AND 68]."

COORDINATION SECTION. **SECTION 129. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 336 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 1 OF HOUSE BILL NO. 336], AMENDING 87-1-111, IS VOID AND [SECTION 68 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 68. RESTITUTION FOR ILLEGAL KILLING, POSSESSION, OR WASTE OF CERTAIN WILDLIFE.** (1) EXCEPT AS PROVIDED IN [SECTION 69] AND IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, A PERSON CONVICTED OR FORFEITING BOND OR BAIL ON A CHARGE OF THE ILLEGAL TAKING, KILLING, POSSESSION, OR WASTE OF A WILD BIRD, MAMMAL, OR FISH LISTED IN THIS SECTION SHALL REIMBURSE THE STATE FOR EACH BIRD, MAMMAL, OR FISH ACCORDING TO THE FOLLOWING SCHEDULE:

(A) MOUNTAIN SHEEP AND ENDANGERED SPECIES, $2,000;

(B) ELK, CARIBOU, BALD EAGLE, BLACK BEAR, WOLF, AND MOOSE, $1,000;

(C) MOUNTAIN LION, LYNX, WOLVERINE, BUFFALO, GOLDEN EAGLE, OSPREY, FALCON, ANTLERED DEER AS DEFINED BY COMMISSION REGULATION, BULL TROUT LONGER THAN 18 INCHES, AND ADULT BUCK ANTELOPE AS DEFINED BY COMMISSION REGULATION, $500;

(D) DEER NOT INCLUDED IN SUBSECTION (1)(C), ANTELOPE NOT INCLUDED IN SUBSECTION (1)(C), FISHER, RAPTOR NOT INCLUDED IN SUBSECTION (1)(C), SWAN, BOBCAT, WHITE STURGEON, RIVER-DWELLING GRAYLING, AND PADDLEFISH, $300;

(E) FUR-BEARING ANIMALS THAT ARE NOT LISTED IN SUBSECTION (1)(C) OR (1)(D), $100;

(F) GAME BIRD (EXCEPT SWAN), $25;

(G) GAME FISH, $10.

(2) WHEN A COURT ENTERS AN ORDER DECLARING BOND OR BAIL TO BE FORFEITED, THE COURT MAY ALSO ORDER THAT SOME OR ALL OF THE FORFEITED BOND OR BAIL BE PAID AS RESTITUTION TO THE STATE ACCORDING TO THE SCHEDULE IN SUBSECTION (1). A HEARING TO DETERMINE THE AMOUNT OF RESTITUTION, AS REQUIRED UNDER 46-9-512, IS NOT REQUIRED FOR AN ORDER OF RESTITUTION UNDER THIS SECTION."

COORDINATION SECTION. **SECTION 130. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 336 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2 OF HOUSE BILL NO. 336], AMENDING 87-1-115, IS VOID AND [SECTION 69 OF SENATE BILL NO. 124] READS AS FOLLOWS:

"NEW SECTION. **SECTION 69. RESTITUTION FOR ILLEGAL KILLING, POSSESSION, OR WASTE OF TROPHY WILDLIFE.** IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, A PERSON CONVICTED OR FORFEITING BOND OR BAIL ON A CHARGE OF PURPOSELY OR KNOWINGLY ILLEGALLY KILLING, TAKING, POSSESSING, OR WASTING A TROPHY ANIMAL LISTED IN THIS SECTION SHALL REIMBURSE THE STATE FOR EACH TROPHY ANIMAL ACCORDING TO THE FOLLOWING SCHEDULE:

(1) MOUNTAIN SHEEP WITH AT LEAST ONE HORN EQUAL TO OR GREATER THAN A THREE-FOURTH CURL AS DEFINED BY COMMISSION REGULATION, $30,000;

(2) ELK WITH AT LEAST SIX POINTS ON ONE ANTLER, AS DEFINED BY COMMISSION REGULATION, OR ANY GRIZZLY BEAR, $8,000;

(3) MOOSE HAVING ANTLERS WITH A TOTAL SPREAD OF AT LEAST 30 INCHES, AS DEFINED BY COMMISSION REGULATION, OR ANY MOUNTAIN GOAT, $6,000;

(4) ANTLERED DEER WITH AT LEAST FOUR POINTS ON ONE ANTLER AS DEFINED BY COMMISSION REGULATION, $8,000;

(5) ANTELOPE WITH AT LEAST ONE HORN GREATER THAN 14 INCHES IN LENGTH AS DEFINED BY COMMISSION REGULATION, $2,000."

NEW SECTION. **SECTION 131. SAVING CLAUSE.** [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS ACT].

NEW SECTION. **Section 132. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

2nd Reading - Committee of Whole

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 5, 2011

SB 59 - House Amendments - Senator Moss moved House amendments to **SB 59** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 108 - House Amendments - Senator Barrett moved House amendments to **SB 108** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Williams, Windy Boy, Wittich, Zinke, Mr. President.
Total 46

Nays: Erickson, Kaufmann, Van Dyk.
Total 3

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 124 - House Amendments - Senator Ripley moved House amendments to **SB 124** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Kaufmann, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Zinke, Mr. President.
Total 47

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Nays: Windy Boy, Wittich.
Total 2

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 135 - House Amendments - Senator Balyeat moved House amendments to **SB 135** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.
Total 41

Nays: Branae, Erickson, Gallus, Kaufmann, Keane, Larsen, Moss, Williams.
Total 8

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 136 - House Amendments - Senator Balyeat moved House amendments to **SB 136** be concurred in. Motion carried as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.
Total 44

Nays: Erickson, Kaufmann, Moss, Stewart-Peregoy, Williams.
Total 5

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

3rd Reading

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 108 passed as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Caferro, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jones, Keane, Lake, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Wittich, Zinke, Mr. President.
Total 42

Nays: Erickson, Jent, Kaufmann, Larsen, Van Dyk, Williams, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 124 passed as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Branae, Brenden, Brown, Buttrey, Erickson, Essmann, Facey, Gallus, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Keane, Lake, Larsen, Lewis, Moore, Moss, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Williams, Wittich, Zinke, Mr. President.
Total 46

Nays: Caferro, Kaufmann, Windy Boy.
Total 3

Absent or not voting: None.
Total 0

Excused: Olson.
Total 1

SB 135 passed as follows:
Yeas: Arthun, Augare, Balyeat, Barrett, Blewett, Brenden, Brown, Buttrey, Essmann, Facey, Gillan, Hamlett, Hawks, Hinkle, Hutton, Jackson, Jent, Jones, Lake, Lewis, Moore, Mowbray, Murphy, Priest, Ripley, Shockley, Sonju, Steinbeisser, Tropila, Tutvedt, Vincent, Vuckovich, Walker, Wanzenried, Windy Boy, Wittich, Zinke, Mr. President.

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AN ACT REORGANIZING AND RECODIFYING FISH AND GAME CODE CRIMINAL STATUTES AND DEFINITIONS; CLARIFYING PENALTIES; AMENDING SECTIONS 45-6-101, 45-6-203, 81-2-121, 87-1-120, 87-1-232, 87-1-234, 87-1-601, 87-1-803, 87-1-804, 87-2-101, 87-2-104, 87-2-106, 87-2-202, 87-2-411, 87-2-521, 87-2-807, 87-3-110, 87-3-121, 87-3-126, 87-3-204, 87-3-221, 87-3-222, 87-3-224, 87-3-403, 87-4-201, 87-4-306, 87-4-407, 87-4-427, 87-4-601, 87-4-609, 87-4-803, 87-4-807, 87-4-903, 87-4-915, 87-4-1002, 87-5-204, 87-5-703, AND 87-5-721, MCA; AND REPEALING SECTIONS 87-1-102, 87-1-108, 87-1-109, 87-1-110, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-115, 87-1-121, 87-1-125, 87-1-208, 87-1-231, 87-2-103, 87-2-109, 87-2-110, 87-2-112, 87-2-114, 87-2-120, 87-2-203, 87-2-205, 87-2-509, 87-2-604, 87-2-804, 87-3-101, 87-3-102, 87-3-103, 87-3-104, 87-3-105, 87-3-107, 87-3-108, 87-3-109, 87-3-111, 87-3-112, 87-3-116, 87-3-117, 87-3-118, 87-3-123, 87-3-124, 87-3-125, 87-3-130, 87-3-134, 87-3-135, 87-3-141, 87-3-142, 87-3-143, 87-3-144, 87-3-205, 87-3-206, 87-3-207, 87-3-209, 87-3-301, 87-3-302, 87-3-304, 87-3-305, 87-3-306, 87-3-307, 87-3-401, 87-3-402, 87-3-404, 87-3-405, 87-3-501, 87-3-503, 87-3-504, 87-3-505, 87-3-506, 87-3-507, 87-4-608, AND 87-4-1014, MCA.

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 16, urging that revision of the criminal codes within Title 87 of the Montana Code Annotated be given priority; and

WHEREAS, House Joint Resolution No. 16 noted that practitioners, judges, and citizens find that the criminal codes intertwined within the fish and game laws in Title 87 are difficult to read, understand, and prosecute; and

WHEREAS, House Joint Resolution No. 16 directed that revision of the Title 87 criminal code should not include policy changes to current laws and should adhere to the intent of the legislatures that crafted the laws; and

WHEREAS, in 2008, the Director of Fish, Wildlife, and Parks appointed a Title 87 criminal code revision working group, consisting of Justices of the Peace, County Attorneys, an Assistant Attorney General, legal counsel and the enforcement administrator of the Department of Fish, Wildlife, and Parks, and legislative staff; and

WHEREAS, the working group met numerous times and spent countless hours crafting a revision that makes the Title 87 criminal code more understandable without making substantive or policy changes to present law; and

WHEREAS, revision of the fish and game criminal statutes will benefit the hunting and fishing public, magistrates, and prosecutors by codifying crimes and penalties in a separate chapter of Montana law, rather than being intertwined throughout Title 87.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(7) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(8) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(9) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(10) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(11) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(12) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(13) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(14) "Knowingly" has the meaning provided in 45-2-101.

(15) "Livestock" includes ostriches, rheas, and emus.

(16) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(17) "Negligently" has the meaning provided in 45-2-101.

(18) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(19) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(20) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(21) "Person" means an individual, association, partnership, and corporation.

(22) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(23) "Purposely" has the meaning provided in 45-2-101.

(24) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(25) "Resident" has the meaning provided in 87-2-102.

(26) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(27) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(28) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(29) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(30) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or

placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(31) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(32) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(33) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(34) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(35) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing.

Section 2. Designation of violations. A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor unless a felony is expressly provided by law.

Section 3. Fish and game violation as inchoate offense. Any violation of this title is an offense for purposes of the crimes of attempt, solicitation, and conspiracy set out in Title 45, chapter 4.

Section 4. Fish and game code not to supersede criminal code -- statute of limitations. (1) The penalty provisions of this title are intended to supplement but not supersede the provisions of Title 45. Nothing in this title limits the prosecution of any conduct defined as an offense in Title 45.

(2) Unless otherwise provided, the general time limitations for prosecutions for violations of any offense under this title are those time limitations specified in 45-1-205.

Section 5. Penalties in addition to Title 37. Notwithstanding the provision of this chapter, the penalties

provided by this chapter are in addition to any penalties provided in Title 37, chapter 47.

Section 6. Lawful taking to protect livestock or person. (1) [Sections 1 through 80] may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this title if the wildlife is attacking, killing, or threatening to kill a person or livestock. However, for purposes of protecting livestock, a person may not kill or attempt to kill a grizzly bear unless the grizzly bear is in the act of attacking or killing livestock.

(2) A person may kill or attempt to kill a wolf or mountain lion that is in the act of attacking or killing a domestic dog.

(3) A person who, under this section, takes wildlife protected by this title shall notify the department within 72 hours and shall surrender or arrange to surrender the wildlife to the department.

Section 7. Violation of commission or department order or rule. A person who purposely, knowingly, or negligently violates an order or rule of the commission or department shall be fined not less than $50 or more than $500. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal. (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed

$1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting,

fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 9. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt. (1) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, labeling, or packaging a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal may be subject to the additional penalties provided in [sections 63 and 64].

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 10. Hunting or fishing during closed season. (1) A person may not hunt or attempt to hunt:

(a) any game animal or game bird or fish for or catch any fish during the closed season on any species of game animal, game bird, or fish; or

(b) an upland game bird until the commission provides an open season on that upland game bird. The open season on mourning doves is restricted to the open season on upland game birds.

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(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting during a closed season may be subject to the additional penalties provided in [sections 63 and 64].

Section 11. Waste of game animal, game bird, or game fish. (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion or wolf, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000

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or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63].

Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal. (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in [section 13];

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the

county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

Section 13. Unlawful sale of grizzly bear. (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount of a grizzly bear may not sell it if it has not been registered with the department pursuant to 87-3-110.

(2) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

Section 14. Unlawful use of aircraft or boat. (1) Except as provided in 87-3-126, a person may not:

(a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, including a helicopter;

(b) use an aircraft or helicopter for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game bird, migratory bird, game animal, or fur-bearing animal; or

(c) if in an aircraft, including a helicopter, spot or locate any game animal or fur-bearing animal and

communicate the location of the game animal or fur-bearing animal to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.

(2) Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:

(a) during emergency situations;

(b) when search and rescue operations are being conducted; or

(c) for predator control as permitted by the department of livestock.

(3) A person may not use a powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game bird, game animal, or fur-bearing animal.

(4) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (4), a person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the

person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or boat to kill or take a fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

Section 15. Unlawful contest or prize. (1)(a) Except as provided in subsections (1)(b) and (1)(c), a person, firm, or club may not offer or give a prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, or fur-bearing animal or any bird or animal protected by law.

(b) A prize may be awarded for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.

(c) A person may conduct or sponsor a contest for which the monetary prize, certificate, or award does not exceed $50 for a person who kills a game animal possessing the largest antlers or horns, carrying the greatest weight, or having the longest body or any similar contest based upon the size or weight of a game animal or part of a game animal. The monetary restriction provided in this subsection (1)(c) does not apply to recognition given by a nationally established and recognized Boone and Crockett trophy institute.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 16. Harassment. (1) (a) A person may not:

(i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

(ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or

(iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

(i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or

(ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of a violation of this section shall be fined not more than $500 or be imprisoned for not more than 30 days, or both. A person convicted of a second or subsequent violation shall be fined not more than $1,000 or be imprisoned for not more than 1 year, or both.

(3) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(4) As used in this section:

(a) "fishing" means the lawful means of fishing as described in [section 45];

(b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

(c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal, predatory animal, or fish.

Section 17. Unlawful supplemental feeding. (1) A person may not provide supplemental feed attractants to game animals by:

(a) purposely or knowingly attracting any cloven-hoofed ungulates, bears, or mountain lions with supplemental feed attractants;

(b) after having received a previous warning, negligently failing to properly store supplemental feed attractants and allowing any cloven-hoofed ungulates, bears, or mountain lions access to the supplemental feed

attractants; or

(c) purposely or knowingly providing supplemental feed attractants in a manner that results in an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.

(2) A person is not subject to civil or criminal liability under this section if the person is engaged in:

(a) the normal feeding of livestock;

(b) a normal agricultural practice;

(c) cultivation of a lawn or garden;

(d) the commercial processing of garbage; or

(e) recreational feeding of birds unless, after having received a previous warning by the department, the person continues to feed birds in a manner that attracts cloven-hoofed ungulates or bears and that may contribute to the transmission of disease or constitute a threat to public safety.

(3) This section does not apply to supplemental feeding activities conducted by the department for disease control purposes.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 18. Shooting at simulated wildlife. (1) A person may not discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state statute or commission rule regulating the hunting of the wildlife being simulated when the decoy is being used by a certified peace officer.

(2) A person convicted of a violation of this section is subject to the same penalty as prescribed for the state statute or commission rule violated during the attempted hunting of the actual wildlife being simulated. In addition, the person shall pay restitution of $50 to the department for the repair of damages to simulated wildlife decoys.

Section 19. Checking station offenses. (1) A person, upon the request of the director, the director's

authorized representative, or any game warden, shall produce for inspection any current fish and game license that has been issued to the person and any game animals, birds, fish, or fur-bearing animals in the person's possession. Hunters or anglers entering or leaving areas for which checking stations have been established shall stop and report if a checking station is on the hunter's or angler's route of travel to or from the hunting or fishing area and personnel are on duty.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 20. Unlawful relocation of fish. (1) A person or firm may not:

(a) place or cause to be placed caged live fish in any of the public waters of the state of Montana, except as provided by department regulation;

(b) without written department approval, move live or dead salmonid fish or eggs from one in-state location to another when the fish or eggs are known to be infected with fish pathogens specified by the department as posing a threat to fisheries;

(c) import live salmonid fish or eggs into Montana without meeting the requirements of 87-3-221; or

(d) discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems pursuant to 87-3-222(2).

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 21. Field trial offenses. (1) A person may not conduct a field trial unless the person has a permit under 87-4-915.

(2) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any

of the terms of the permit.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 22. Hunting, fishing, or trapping without license. (1) Except as provided in subsection (2), a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department if the person is 16 years of age or older.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

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conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in [sections 63 and 64].

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 23. Unlawful procurement of license, permit, or tag. (1) A person may not:

(a) subscribe to or make any materially false statement on an application or license. Any material false statement contained in an application renders the license issued pursuant to it void.

(b) purchase a hunting, fishing, or trapping license without first having obtained a wildlife conservation license pursuant to 87-2-201; or

(c) purposely or knowingly assist an unqualified applicant in obtaining a resident license.

(2) A license agent may not sell any hunting, fishing, or trapping license to:

(a) an applicant who fails to produce the required identification at the time of application for licensure pursuant to 87-2-106(1) and 87-2-202(1); or

(b) a person who does not present the person's wildlife conservation license at the time of application for the licenses.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 24. Nonresident license or permit offenses. (1) A person who is not a resident may not:

(a) apply for or purchase for a nonresident's use the following resident licenses and permits:

(i) wildlife conservation license;

(ii) hunting license or permit; or

(iii) fishing license or permit;

(b) affirm to or make a false statement to obtain a resident license.

(2) A person convicted of a violation of this section shall be fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000 or be imprisoned in the county jail for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for not less than 18 months.

Section 25. License, permit, or tag offenses. (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in [section 26(2)], a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

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Section 26. Unlawful possession of hunting or fishing license or permit. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of a hunting or fishing license or permit if the person knowingly carries or has physical control over a valid and unused:

(a) hunting license or permit issued to another person while in any location that the species to be hunted may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

(c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or rule.

(2) The prohibition in subsection (1) does not apply:

(a) to a person who is carrying or has physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person; and

(b) when a properly obtained and validated license or permit is attached to a lawfully killed game animal.

(3) Except as provided in subsection (4), a person who violates this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued or by knowingly carrying, having physical control of, or selling two or more licenses or permits that were issued in violation of applicable law or rule is guilty of a felony and upon conviction shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and lose the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

Section 27. Hunting, fishing, or trapping while privileges or licenses forfeited or suspended. (1)

A person may not hunt, fish, or trap while the person's license or privilege to hunt, fish, or trap in this state is forfeited for a violation of this title or any other law pertaining to fish and game in this state. A person convicted of a violation of this section may be fined not less than $500 or more than $2,000 and shall be imprisoned in the county detention center for not less than 5 days or more than 6 months.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not hunt, fish, or trap in this state while that privilege is suspended. A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

Section 28. Unlawful procurement of license while privileges forfeited or suspended. (1) A person whose privilege to hunt, fish, or trap in this state is forfeited for a conviction or forfeiture of bail or bond for a violation under [sections 1 through 80] in this state may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit while that privilege is forfeited.

(2) A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, may not apply for or purchase any license to hunt, fish, or trap in this state while that privilege is suspended.

(3) A person convicted of a violation of this section shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

Section 29. Failure to surrender license for violation in participating state. A person whose privilege to hunt, fish, or trap in this state has been suspended for a violation of fish and game law in a participating state, pursuant to 87-1-803, and who refuses to surrender any current hunting, fishing, or trapping license as required shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

Section 30. Offense of noncompliance in Montana. A person who hunts, fishes, traps, purchases licenses, or refuses to surrender any current hunting, fishing, or trapping license in violation of [section 76] shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail may be subject to forfeiture

of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 31. Offense of noncompliance in participating state. A person who hunts, fishes, or traps, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, fishing, or trapping license in violation of 87-1-804 shall be fined not less than $500 or more than $2,000 or be imprisoned in the county jail for not more than 60 days, or both.

Section 32. Unlawful special application or entry. A person convicted of unlawfully applying for or entering a drawing for any special license or permit in violation of [section 75] shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 60 days, or both.

Section 33. Unlawful use of equipment while hunting. (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife except predatory animals and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm;

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than

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a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 34. Unlawful hunting within city or town. (1) A person may not hunt or attempt to hunt any deer within the boundaries of any incorporated or unincorporated city or town of this state except as allowed under a plan developed by a city or town and approved by the department pursuant to 7-3-1105, 7-3-1222, or 7-31-4110.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 35. Unlawful hunting from public highway. (1) Except as provided in 87-2-803(4), a person may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

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conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 36. Unlawful use of dog while hunting. (1) Except as provided in subsections (3) through (5), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following

year.

(5) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 37. Unlawful use of vehicle while hunting. (1) Except as provided in 87-2-803(4), a person may not:

(a) hunt or attempt to hunt any game animal or game bird from any self-propelled or drawn vehicle; or

(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(2) Except as provided in 87-2-803(4), a person may not, while hunting a game animal or bird:

(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;

(b) use a motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

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(3) The restrictions in subsection (2) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land and not to hunting on federal land unless the federal agency specifically requests or approves state enforcement.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(5) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69].

Section 38. Unlawful destruction of evidence of sex. (1) A person who kills a big game animal in this state may not destroy evidence of the sex of the big game animal so as to make the determination of the sex of the big game animal uncertain.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 39. Migratory game bird offenses. A person who violates any provision of 87-3-403 related to migratory game birds shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 40. Tagging of game animal offenses. (1) Each license issued by the department authorizing the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any

tags, coupons, or markers as the department prescribes. When a person kills a game animal under the license, the person shall immediately cut out from the tag, coupon, or other marker the date the animal was killed and attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license holder, the license holder's address, and any other information requested on the tag, coupon, or other marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed. When a game animal has been lawfully killed and the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal becomes the property of the person who lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

(2) A person who kills any game animal by authority of any license issued for the killing of the game animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the game animal or portion of the game animal.

(3) A person may not fail to keep the tag, coupon, or other marker attached to the game animal or portion of the game animal while the animal is possessed by the person.

(4) A person may not tag a game animal with a tag restricted to a hunting district other than the hunting district where the game animal was killed.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 41. Tagging of turkey offenses. (1) A person who kills, captures, or possesses a wild turkey by authority of any turkey tag or permit may not:

(a) fail or neglect to attach the tag to the turkey;

(b) fail to validate the tag by not filling out or punch marking the tag as required; or

(c) fail to keep the tag attached while the turkey is possessed by the person.

(2) A person who takes or kills a turkey must immediately attach to the turkey's leg a valid tag in compliance with instructions on the tag.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 42. Hunting or killing over limit. (1) A person may not attempt to kill, take, shoot, or capture or kill, take, hunt, shoot, or capture more than one game animal of any one species in any 1 license year unless the killing of more than one game animal of that species has been authorized by regulations of the department.

(2) If a person is convicted or forfeits bond or bail after being charged with hunting or killing over the limit of:

(a) mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(b) deer, antelope, elk, or mountain lion, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) fur-bearing animal, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(3) A person convicted of unlawful taking of more than double the legal bag limit as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67

through 69].

Section 43. Failure to wear hunter orange while big game hunting. (1) Except as provided in subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

(2) As used in this section, "hunter orange" means a daylight fluorescent orange color.

(3) This section does not apply to a person hunting with a bow and arrow during the special archery season.

(4) The department shall make rules to implement this section.

(5) A person convicted of a violation of this section shall be punished by a fine of not less than $10 or more than $20.

Section 44. Failure to obtain landowner's permission for hunting. (1) A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take nongame wildlife or predatory animals or hunting on private property.

(2) Except as provided in subsection (3), a person who violates this section shall, upon conviction for a first offense, be fined an amount not to exceed $25.

(3) A person convicted of a violation of this section for hunting a big game animal on private property without obtaining permission of the landowner shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 45. Fishing offenses. (1) Except when specifically authorized by law or by commission rule, a person may not:

(a) fish by any means other than by hook and single line or single rod, in hand or within immediate control. This does not prevent:

(i) fishing from a boat or the shore on a lake or reservoir by hook and two lines or two rods, in hand or within immediate control, in accordance with rules that the commission adopts;

(ii) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;

(iii) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow under rules and regulations that the commission adopts;

(iv) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (1)(a);

(v) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;

(vi) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under the rules and regulations that the commission adopts;

(vii) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or

(viii) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March under rules and regulations that the commission adopts.

(b) unlawfully use any fishing rod and line, fishing lines, spear, gig, or barbed fork;

(c) take or catch fish using fishtraps, grabhooks, spears, gigs, or other similar means for catching fish;

(d) use any gun or trap or other device to entrap, catch, capture, or take or to attempt to entrap, catch, capture, or take any game fish;

(e) have in the person's possession or under the person's control a seine, net, or other similar device for capturing fish. A seine or net found in a vehicle, at the camp, or on the premises of a person is prima facie evidence that the seine, net, or similar device belongs to the person or persons occupying the camp or premises. This subsection (1)(e) does not apply to:

(i) a license holder for a private fish pond who is licensed to sell fish and eggs under 87-4-603;

(ii) a person with an unexpired seine or net license;

(iii) the use, by any person, of a landing net in connection with or in addition to a pole, line, and hooks in fishing for game fish; or

(iv) the possession of traps, seines, or nets when found in the vicinity of any waters in which the commission has designated that traps, seines, or nets may be used for the taking of nongame fish or game fish.

(f) take or catch fish with a hook baited with any poisonous substance or using any poisonous substance, including fish berries;

(g) use archery equipment prohibited by rule of the commission to fish; or

(h) use any carbide, lime, giant powder, dynamite, or other explosive compounds or any corrosive or narcotic poison or other deleterious substance or have any of the enumerated items in the person's possession within 100 feet of any stream where fish are found for the purpose of catching, stunning, or killing fish. This subsection (1)(h) does not apply to anyone authorized by the department to conduct lake or stream surveys or to control undesirable or overpopulated species of fish.

(2) The possession of a fishing rod and line, spear, gig, or barbed fork on the banks or shores of a stream or lake is prima facie evidence that the person or persons in whose possession these implements are found were using the implements to fish.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 46. Trapping and snaring offenses. (1) A person may not use a snare trap for the purpose of snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and telephone number;

(b) the consent of the landowner has been obtained for a set on private property; and

(c) the snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal

tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3) A holder of a Class C-2 trapper's license may not trap or snare predatory animals or nongame wildlife on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 47. Trapping during closed season. (1) A person may not trap or hunt or attempt to trap or hunt any fur-bearing animal until the commission provides an open season on any fur-bearing animal. The furs and hides of fur-bearing animals legally taken during the open season may be possessed, bought, and sold at any time except as provided by law.

(2) When it is shown that muskrats or beaver are causing severe injury to or are a menace to the structures, canal banks, or other works of an irrigation project or district or to a stock water pond, any employee or resident landowner on the project or district may kill or trap or cause to be killed or trapped any muskrat or

beaver upon or in menacing proximity to the structures, canal banks, or other works of the project or district or the stock water pond during the closed season on muskrats or beaver after having secured from the director a permit to do so, except that from June 1 to August 31 of each year, a permit is not required.

(3) A person convicted of a violation of this section shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(4) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 48. Waste of fur-bearing animal. (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 49. Failure to report or tattoo. (1) Any bear, wolf, tiger, mountain lion, or coyote that is

captured alive to be released later or that is held in captivity for any purpose must be reported to the department within 3 days of the capture or commencement of captivity.

(2) Each animal reported as required in subsection (1) must be permanently tattooed or otherwise permanently identified in a manner that will provide positive individual identification of the animal. No tattoo is required if the animal is subject to a permanent, individual identification process by another state or federal agency.

(3) Any person holding a bear, wolf, tiger, mountain lion, or coyote in captivity shall immediately report to the department any death, escape, release, transfer of custody, or other disposition of the animal.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 50. Outfitting without a license. (1) (a) A person may not purposely or knowingly engage in outfitting while not licensed pursuant to Title 37, chapter 47, or purposely or knowingly violate a licensing rule adopted under Title 37, chapter 47.

(b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than $200 or more than $1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(2) (a) A person or entity that represents to any other person, any entity, or the public that the person or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued in excess of $5,000 is punishable by a fine of not more than $50,000 or imprisonment in the state prison for up to 5 years, or both.

(b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum

of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b) shall consider and may impose any of the following conditions during the period of revocation:

(a) prohibiting the offender from:

(i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant;

(ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally or through an agent or representative;

(iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

(iv) purchasing or possessing any hunting, fishing, or trapping permits; and

(b) imposing any other reasonable condition or restriction that is related to the crime committed or that is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this state.

(4) A person convicted of a violation of this section shall reimburse the full amount of any fees received to the person to whom illegal outfitting services were provided.

(5) As used in this section, the following definitions apply:

(a) "Consideration" means remuneration given in exchange for outfitting services supplied based on a business relationship between parties, but not including reimbursement for shared trip expenses.

(b) (i) "Outfitting" means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide or professional guide in accompanying that person.

(ii) The term does not include the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests.

Section 51. Taxidermist offenses. (1) A person convicted of a violation of 87-4-201 related to the licensing and recordkeeping of taxidermists shall be fined not less than $50 or more than $1,000 or be imprisoned

in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) In addition to the penalties in subsection (1), the taxidermist's license of the person convicted may be revoked by the court.

Section 52. Fur dealer offenses. A person convicted of a violation of 87-4-302 or 87-4-303 related to the licensing and recordkeeping of a fur dealer shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 53. Alternative livestock ranch offenses. (1) A person may not purposely or knowingly violate any provision of or rule adopted pursuant to Title 87, chapter 4, part 4, pertaining to the licensure or operation of an alternative livestock ranch.

(2) In addition to license revocation or other penalties allowed by 87-4-427, a person who purposely or knowingly violates this section shall be fined not more than $1,000 or be imprisoned in the county jail for not more than 1 year, or both.

(3) Any violation of [section 12] regarding the sale of an animal in connection with an alternative livestock ranch is subject to prosecution and penalties under that section.

Section 54. Shooting preserve offenses. (1) A person may not:

(a) hunt on a shooting preserve without obtaining a license pursuant to 87-4-504; or

(b) harvest game on a shooting preserve without tagging the game pursuant to 87-4-525.

(2) Each shooting preserve operator shall keep records in accordance with 87-4-526.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon

conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 55. Unlawful sale of fish or spawn. (1) Except as provided in 87-4-601 and subsections (2) and (3) of this section, a person may not, for speculative purposes, for market, or for sale, catch game fish or remove or cause to be removed the eggs or spawn of any game fish in any way. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.

(2) The restrictions of subsection (1) do not apply to the:

(a) catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;

(b) taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond licensed under 87-4-603;

(c) catching of whitefish by the holder of a valid fishing license fishing with hook and line or a rod in specified waters designated by rules of the commission;

(d) taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River under rules of the commission; or

(e) sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.

(3) A person may possess and sell legally taken nongame fish as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 56. Unlawful taking of fish or aquatic organism. (1) A person may not take fish or aquatic

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organisms for commercial purposes without obtaining a permit from the department pursuant to 87-4-609.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 57. Unlawful taking of crayfish. (1) A person may not take crayfish from the waters of the state, except from private fish ponds regulated under 87-4-603 or as provided in subsection (2) of this section, for sale or commercial distribution.

(2) A person may take crayfish from the waters of the state for sale or commercial distribution as fishing bait under rules adopted by the department under 87-4-609.

(3) A person convicted of a violation of this section may be fined not less than $50 or more than $500 or may be imprisoned in the county jail for not more than 6 months, or both.

Section 58. Menagerie and zoo offenses. (1) A person may not:

(a) operate a roadside menagerie or wild animal menagerie without a permit obtained pursuant to 87-4-803;

(b) subscribe to any false statement in an application for a permit; or

(c) obtain wild animals for a roadside menagerie, wild animal menagerie, or zoo by capture from the wild or by purchase except in accordance with 87-4-804.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 59. Owning, controlling, or propagating game birds without license. A person who owns, controls, or propagates game birds in violation of Title 87, chapter 4, part 9, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 60. Owning, controlling, or propagating furbearers without license. A person who owns, controls, or propagates furbearers in violation of 87-4-1002 shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

Section 61. Unlawful acquisition of furbearer. (1) A person may not capture, take, or otherwise acquire a furbearer from the wild for use on a fur farm.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 62. Wild bird, raptor, and falcon offenses. (1) A person who violates any provision of Title 87, chapter 5, part 2, pertaining to the regulation of wild birds, raptors, and falconry, shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to

use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(2) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 and 68].

Section 63. Second offense penalties. (1) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license;

(d) unlawful taking of more than double the legal bag limit;

(e) unlawful possession of more than double the legal bag limit; and

(f) waste of game by abandonment in the field.

(2) A person convicted of the offenses in subsection (1) in the time periods specified in subsection (1) shall be fined not less than $2,000 or more than $5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture unless the court imposes a longer period.

Section 64. Third offense penalties. (1) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (2):

(a) hunting during a closed season;

(b) taking an animal or hunting while using projected artificial light;

(c) hunting without a license; and

(d) unlawful taking of more than double the legal bag limit.

(2) A person convicted of the offenses in subsection (1) in the time period specified in subsection (1) shall be fined not less than $5,000 or more than $10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for life.

Section 65. Additional penalty for use of artificial light or scope. (1) If a person is convicted of illegally taking an animal described in [section 68 or 69] through the use of projected artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(2) A person convicted of taking an animal while using projected artificial light as described in this section may be subject to the additional penalties provided in [sections 63 and 64].

Section 66. Different penalty for unlawful attempt to hunt or trap. A person convicted of unlawfully attempting to hunt or trap a game animal shall be fined not less than $200 or more than $600 or be imprisoned in the county detention center for not more than 60 days, or both.

Section 67. Finding required for restitution. Before restitution may be ordered pursuant to [section 68 or 69], the finder of fact at trial or the court upon entry of a guilty or nolo contendere plea shall find that the illegal killing or possession was done knowingly or purposely as defined in 45-2-101. This finding is not required for state reimbursement under [section 68] when bond or bail is forfeited.

Section 68. Restitution for illegal killing or possession of certain wildlife. (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

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(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.

Section 69. Restitution for illegal killing or possession of trophy wildlife. In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, or possessing a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.

Section 70. Payment -- penalty for nonpayment of restitution. (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 68 or 69].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

Section 71. Disposition of proceeds from restitution. All money collected by a court pursuant to [sections 67 through 70] must be remitted to the department of revenue for deposit in the state special revenue

fund account to the credit of the department for hunter education purposes or for enforcement.

Section 72. Remedial hunter education program -- sentencing. (1) The court may sentence a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges or who is convicted of a hunting violation to complete a remedial hunter education course.

(2) A person who is sentenced by the court to complete a remedial hunter education course shall successfully complete the course before any license privileges may be restored.

(3) The department may not issue a hunting, fishing, or trapping license to a person who is convicted of a hunting violation that results in a mandatory forfeiture of hunting privileges until the person has successfully completed the remedial hunter education course.

(4) If the person who is sentenced by the court to complete the remedial hunter education course is not a resident of the state of Montana, the sentencing court shall require the person to complete a similar remedial hunter education course in the person's state of residence. If a similar course does not exist in the person's state of residence, the person shall complete Montana's course before any Montana hunting, fishing, or trapping license may be issued.

(5) This section does not allow the issuance of any licenses to a person whose hunting or fishing privileges have been revoked for life.

Section 73. Costs of imprisonment. Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to [sections 1 through 80] to pay the costs of imprisonment under [sections 1 through 80].

Section 74. Privileges of juveniles. A mandatory forfeiture of privileges imposed pursuant to [sections 1 through 80] does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's current hunting, fishing, or trapping licenses issued by this state and the juvenile's privilege to hunt, fish, or trap in this state upon conviction or forfeiture of bond or bail for a violation of this title.

Section 75. Restriction on special application or entry when ordered to pay restitution. A person convicted or who has forfeited bond or bail under this title and who has been ordered to pay restitution under the

provisions of [section 68 or 69] may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a mountain sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period.

Section 76. Suspension of privileges for failure to comply with citation, sentence, or administrative suspension. (1) A person who fails to comply with the terms of a court citation or the terms of an administrative suspension or who fails to fulfill the obligations of any court-imposed sentence for a wildlife violation under this title, resulting in the issuance of a warrant for the person's arrest, shall forfeit any current hunting, fishing, or trapping license issued by this state to the department, and the person's privilege to hunt, fish, or trap in this state is suspended until the terms of the court citation or sentence are satisfied.

(2) A person who loses the person's privileges under this section must be notified by the department or by the administrative authority in person or by mail.

Section 77. Forfeiture of license or permit for littering. A holder of a Montana resident or nonresident fishing or hunting license or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, camp, or trap in this state for a period of 1 year from the date of conviction.

Section 78. Revocation of exception. If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by 87-2-801 through 87-2-803 must be revoked for not less than 6 months.

Section 79. Notification of loss of privileges -- reinstatement and revocation. (1) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses,

as ordered by the court, to the department within 10 days.

(2) After a forfeiture period imposed pursuant to [sections 1 through 80] and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs, or restitution, have been met or that the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

Section 80. Suspension by administrative authority -- notice and surrender of license or permit. If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

Section 81. Penalties. A person who violates this part is subject to the penalties provided in [section 54].

Section 82. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of

restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of $1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks ~~is subject to an additional penalty as provided in 87-1-102(2)(e)~~ shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture."

Section 83. Section 45-6-203, MCA, is amended to read:

"45-6-203. Criminal trespass to property. (1) Except as provided in 15-7-139, 70-16-111, and 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping ~~is subject to an additional penalty as provided in 87-1-102(2)(f)~~ may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture."

Section 84. Section 81-2-121, MCA, is amended to read:

"81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property --

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notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if the landowner or agent:

(a) ~~the landowner or agent~~ notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) ~~the landowner or agent~~ makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) ~~the landowner or agent~~ is not in violation of subsection (2)(a).

(2) (a) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection ~~is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1)~~ (2)(a) shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) This subsection (2) does not apply to supplemental feeding activities conducted by the department for disease control purposes."

Section 85. Section 87-1-120, MCA, is amended to read:

"87-1-120. Remedial hunter education program. (1) The department shall develop a remedial hunter education program for hunting law violators.

(2) The program must be funded through money collected by a court pursuant to ~~87-1-111 through 87-1-113~~ [sections 67 through 70].

(3) The department shall determine the qualifications for instructors, hire the instructors, and pay the instructors at a rate determined by the department.

(4) A person who is sentenced by the court to complete a remedial hunter education course shall pay

the costs directly attributable to the person's participation in the remedial hunter education program.

(5) The course instructor shall notify the sentencing court of the participant's attendance record and of the participant's success or failure in completing the program.

(6) A participant whose hunting, fishing, or trapping license has been revoked shall successfully complete the program before license privileges may be reinstated."

Section 86. Section 87-1-232, MCA, is amended to read:

"87-1-232. Tattoo records. (1) The department shall maintain a record of each animal reported to it pursuant to ~~87-1-234~~ [section 49]. The record shall indicate:

(a) the person by whom the animal was captured or is held in captivity;

(b) the location of the capture or captivity;

(c) the date the animal was tattooed;

(d) the purpose of the captivity or capture; and

(e) any death, escape, release, transfer of custody, or other disposition of ~~such~~ the animal.

(2) The department shall establish by rule a fee to be charged, which may not exceed the administrative cost of maintaining the record required by this section."

Section 87. Section 87-1-234, MCA, is amended to read:

"87-1-234. Exceptions to tattoo and compensation requirements. Sections ~~87-1-231 through~~ 87-1-232, 87-1-233, and [section 49] do not apply to those animals:

(1) captured and released as part of an ongoing game management program or an ongoing predator control program unless ~~such~~ the animals have been involved in livestock killing; or

(2) captured and released as part of a scientific, educational, or research program as certified by the department."

Section 88. Section 87-1-601, MCA, is amended to read:

"87-1-601. (Temporary) Use of fish and game money. (1) (a) Except as provided in subsections (7) and (9), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from

appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs.

87-1-601. (Effective March 1, 2011) Use of fish and game money. (1) (a) Except as provided in 87-1-290 and subsections (7) and (9) of this section, all money collected or received from the sale of hunting and

fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,

except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to ~~87-1-102~~ [sections 1 through 80].

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs."

Section 89. Section 87-1-803, MCA, is amended to read:

"87-1-803. Reciprocal recognition of license suspensions -- suspension of privileges for conviction in participating state. (1) When the department receives notice of the suspension of a person's hunting, trapping, or fishing privileges by a participating state, the department shall determine whether the violation leading to the suspension could have led to the forfeiture of privileges under Montana law. If the department determines that the person's privileges could have been forfeited, the department shall suspend the person's privileges to hunt, trap, or fish in Montana for the same period as imposed by the participating state or for the minimum period that would have been imposed under Montana law, whichever period is longer.

(2) When the department receives notice of a conviction of a Montana resident from the licensing authority of the issuing state, the department shall treat the conviction as if it had occurred in Montana and shall determine whether the conviction could have led to the forfeiture of the resident's hunting, trapping, or fishing privileges under Montana law. If the department determines that the resident's privileges could have been forfeited, the department shall suspend the resident's privileges to hunt, trap, or fish in Montana for the minimum period that would have been imposed under Montana law.

(3) Notice of the suspension must be sent to the person, who shall surrender any current Montana hunting, trapping, and fishing licenses to the department within 10 days.

~~(4) A person whose privileges have been suspended and who hunts, traps, or fishes in Montana, who applies for or purchases any licenses or permits to hunt, trap, or fish in Montana, or who refuses to surrender any current hunting, trapping, and fishing licenses as required is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 90. Section 87-1-804, MCA, is amended to read:

"87-1-804. Suspension of privileges for failure to comply with citation issued in participating state. (1) The department shall suspend the hunting, trapping, or fishing privileges of any resident of Montana upon notification from the licensing authority of an issuing state that the resident has failed to comply with the terms of a citation issued for a wildlife violation. The suspension remains in effect until the department receives satisfactory evidence of compliance from the issuing state.

(2) Notice of the suspension must be sent to the resident, who shall surrender all current Montana

hunting, trapping, and fishing licenses to the department within 10 days.

~~(3) A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102(4).~~"

Section 91. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in ~~87-1-102,~~ chapter 3~~,~~ and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

~~(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.~~

~~(4) "Commission" means the state fish, wildlife, and parks commission.~~

~~(5)~~(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

~~(6)~~(4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(7)~~(5) "Game fish" means all species of the family ~~salmonidae~~ Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus ~~stizostedion~~ Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus ~~esox~~ Esox (northern pike, pickerel, and muskellunge); all species of the genus ~~micropterus~~ Micropterus (bass); all species of the genus ~~polyodon~~ Polyodon (paddlefish); all species of the family ~~acipenseridae~~ Acipenseridae (sturgeon); all species of the genus ~~lota~~ Lota (burbot or ling); the species ~~perca~~ Perca flavescens (yellow perch); all species of the genus ~~pomoxis~~ Pomoxis (crappie); and the

species ~~ictalurus~~ Ictalurus punctatus (channel catfish).

~~(8)~~(6) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

~~(9)~~(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; ~~wilson's~~ Wilson's snipes or jacksnipes; and mourning doves.

~~(10)~~(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

~~(11)~~(9) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

~~(12)~~(10) "Person" means individuals, associations, partnerships, and corporations.

~~(13)~~(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

~~(14)~~(12) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(15)~~(13) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(16)~~(14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 92. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses, permits, or tags allowed -- fees. ~~(1) It is unlawful for a person to apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under subsection (4) for game management purposes. However, when more than one license,~~

~~permit, or tag is authorized by the commission, it is unlawful to apply for, purchase, or possess more licenses, permits, or tags than are authorized.~~

~~(2) It is unlawful for the holder of a replacement license, permit, or tag to make the replacement license, permit, or tag available for use by another person.~~

~~(3)~~(1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed $5.

~~(4)~~(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant.

~~(5)~~(3) For all of the game management licenses issued under subsection ~~(4)~~ (2), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(6)~~(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take an antlerless elk. Unless otherwise reduced pursuant to subsection ~~(7)~~ (5), the fee for a Class B-12 license is $273. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(7)~~(5) The fee for a resident or nonresident license of any class issued under subsection ~~(4)~~ (2) or ~~(6)~~ (4) may be reduced annually by the department."

Section 93. Section 87-2-106, MCA, is amended to read:

"87-2-106. Application for license ~~-- penalties for violation -- forfeiture of privileges~~. (1) A license may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status

as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. ~~It is a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure.~~ Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the officer or agent issuing the license.

(2) Except as provided in subsection (3), department employees or officers may issue licenses by telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before the employee or officer.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee.

~~(6) It is unlawful to subscribe to or make any statement, on an application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.~~

~~(7)~~(6) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any license until all terms of the court sentence in which the privilege was revoked, including making restitution, have been met or the person is in compliance with installment payments specified by the court and the department has received notification from the sentencing court to that effect pursuant to ~~87-1-102(1)~~ [section 79(2)].

~~(8) It is unlawful for a nonresident to apply for or purchase for a nonresident's use the following resident licenses and permits:~~

~~(a) wildlife conservation license;~~

~~(b) hunting license or permit; or~~

~~(c) fishing license or permit.~~

~~(9) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a resident license in violation of subsection (8) shall be:~~

~~(i) fined not less than the greater of $100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than $1,000;~~

~~(ii) imprisoned in the county jail for not more than 6 months; or~~

~~(iii) both fined and imprisoned.~~

~~(b) In addition to the penalties specified in subsection (9)(a), upon conviction or forfeiture of bond or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish, and trap in Montana for not less than 18 months.~~

~~(10) It is a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in obtaining a resident license in violation of this section.~~

[~~(11)~~(7) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

~~(12)~~(8) The department shall delete an applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

Section 94. Section 87-2-202, MCA, is amended to read:

"87-2-202. (Temporary) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity

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and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years

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after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

87-2-202. (Effective March 1, 2011) Application -- fee -- expiration. (1) Except as provided in 87-2-803(12), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12). ~~It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

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(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

Section 95. Section 87-2-411, MCA, is amended to read:

"87-2-411. ~~License required to hunt migratory~~ Migratory game ~~birds~~ bird licenses -- fees -- disposition of proceeds. (1) ~~A person 16 years of age or older may not hunt migratory game birds without first having obtained a valid migratory bird license from the department.~~ The fee for a resident to purchase the migratory game bird license is $6.50. The fee for a nonresident to purchase the migratory game bird license is $50.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended only for the protection, conservation, and development of wetlands in Montana."

Section 96. Section 87-2-521, MCA, is amended to read:

"87-2-521. Class D-3--resident hound training license. A person who is a resident, as defined in

87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of $5, may receive a Class D-3 hound training license that entitles the holder to use a dog or dogs to aid in pursuing mountain lions or bobcats during the training season established in ~~87-3-124(3)(c)~~ [section 36(4)]."

Section 97. Section 87-2-807, MCA, is amended to read:

"87-2-807. Taking migratory game birds for propagation -- avicultural permit. (1) The department may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in 87-2-101~~(9)~~, for the purpose of propagation. Before issuing an avicultural permit, the department shall determine that the applicant has been issued the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

(2) An avicultural permit issued under this section must specify:

(a) the species of migratory game birds allowed to be taken under the permit;

(b) whether eggs or hatched birds, or both, may be taken;

(c) the number of eggs or hatched birds, or both, that may be taken;

(d) areas in which collection may be made;

(e) means by which collection may be made;

(f) the time period for which the permit is valid; and

(g) any other conditions imposed by the department under rules adopted pursuant to subsection (5).

(3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in accordance with this section remain the property of the state and may be disposed of only with the permission of the department. Progeny of hatched migratory game birds taken under permit as provided in this section become the private property of the holder of the permit who propagates the migratory game birds, and the owner may sell or transfer the birds as private property, subject to any applicable state or federal law or regulation.

(4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed the cost of issuing the permit.

(5) The department shall adopt rules implementing this section."

Section 98. Section 87-3-110, MCA, is amended to read:

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"87-3-110. ~~Registration for sale of~~ Regulation of certain grizzly bears and grizzly bear parts. (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount ~~thereof~~ of a lawfully killed grizzly bear may sell it if it has been registered with the department in the manner and upon forms provided by the department. The registration form must specifically describe the grizzly bear or the hide, head, or mount thereof and must accompany it upon any sale.

(2) Bears or parts ~~thereof~~ of bears may be registered as follows:

(a) Before January 1, 1986, any lawfully killed grizzly bear or part ~~thereof~~ of the bear may be registered.

(b) On or after January 1, 1986, bears lawfully killed in Montana may be registered within 10 days after the date of kill, and bears lawfully killed outside Montana may be registered within 3 months after the date of kill upon presentation of proof of lawful kill.

(3) Registration under this section does not legalize any prior illegal act, such as the unlawful killing or theft of a grizzly bear or part ~~thereof~~ of the bear.

(4) A person who is responsible for the death of a grizzly bear shall deliver all parts of the grizzly bear required by department or commission regulation for scientific purposes to an officer or employee of the department for inspection as soon as possible after removal, and the department shall return to the person any bone structure and skull within 1 year upon written request. The hide must be returned immediately."

Section 99. Section 87-3-121, MCA, is amended to read:

"87-3-121. ~~Conditions for award of prizes~~ Regulation of contests. ~~(1) It shall be unlawful for any person, firm, corporation, association, or club to offer or give any prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, fur-bearing animals, or any bird or animal now or that shall be hereafter protected in any way by the fish and game laws of the state of Montana.~~

~~(2)~~ The commission shall adopt rules to regulate contests, in accordance with provisions of [section 15], by a person, firm, ~~corporation, association,~~ or club that intends to offer or give a prize, gift, or anything of value in connection with or as a prize for the taking, capturing, killing, or in any manner acquiring fish that are protected under Title 87. The commission's rules must be based on the commission's duty under Title 87 to protect, preserve, and propagate fish in the state.

~~(3) This section shall not be construed to prohibit the award of prizes for any one game bird or~~

~~fur-bearing animal on the basis of size, quality, or rarity.~~"

Section 100. Section 87-3-126, MCA, is amended to read:

"87-3-126. ~~Restrictions on use~~ Use of aircraft or ~~boats~~ helicopter -- ~~exception --~~ authority to issue permits and adopt rules. ~~(1) (a) A game bird or game or fur-bearing animal may not be killed, taken, or shot at from any aircraft, including helicopters.~~

~~(b) An aircraft or helicopter may not be used for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game or migratory birds or game or fur-bearing animals.~~

~~(c) A powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail may not be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game birds or game or fur-bearing animals.~~

~~(2) It is unlawful for any person airborne in any aircraft, including a helicopter, to spot or locate any game or fur-bearing animals and communicate the location of the game or fur-bearing animals to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.~~

~~(3) Within the boundaries of a national forest, except as permitted by the department, it is unlawful to use aircraft, including helicopters, for hunting purposes, except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:~~

~~(a) during emergency situations;~~

~~(b) when search and rescue operations are being conducted; or~~

~~(c) for predator control as permitted by the department of livestock.~~

~~(4)~~ An aircraft or helicopter may be used for the purpose of herding, driving, or hazing wild animals damaging private property or crops on the property in question pursuant to a permit issued by the department. The commission shall adopt rules for the issuance of the permit. The permit may be conditioned to address individual circumstances of each application for a permit. The department may not issue permits during any legal hunting season for the species for which a permit was requested. The permitting program must comply with

requirements of federal law for ~~such~~ the activity."

Section 101. Section 87-3-204, MCA, is amended to read:

"87-3-204. ~~Restrictions on fishing methods -- allowed fishing methods~~ Designation of state waters for particular fishing methods. ~~(1) A game fish may not be caught, captured, or taken or attempted to be caught, captured, or taken by the aid or with the use of any gun or trap, nor may any gun, trap, or other device to entrap game fish be used, made, or set.~~

~~(2) Except when specifically authorized by law or commission rule, a person may not:~~

~~(a) take or catch fish in any of the waters of this state, except with hook and line held in hand or line and hook attached to rod or pole held in hand or within immediate control;~~

~~(b) take or catch fish with hook baited with any poisonous substance or using any poisonous substance, including fish berries; or~~

~~(c) take or catch fish using fishtraps, grabhooks, seines, nets, spears, gigs, or other similar means for catching fish.~~

~~(3)~~(1) (a) The commission may designate waters within the state in which rubber or spring-propelled spears employed by persons swimming or submerged in the water or traps, seines, nets, spears, or gigs may be used for taking:

(i) nongame fish; or

(ii) walleyed pike, sauger, northern pike, burbot (ling), and whitefish.

(b) The commission may adopt rules for the taking of fish under this subsection ~~(3)~~ (1), and the rules may be specific to the water designated. The designated waters may be closed at the discretion of the commission.

(c) Except when the taking of game fish is authorized pursuant to subsection ~~(3)(a)(ii)~~ (1)(a)(ii), all game fish captured while fishing as authorized under this subsection ~~(3)~~ (1) must be returned uninjured to the waters from which they were taken.

~~(4)~~(2) The commission may designate certain waters where setlines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines that may be used as setlines.

~~(5) Game fish must be taken only by hook and single line or single rod in hand or within immediate control. This does not prevent, however:~~

~~(a) the snagging of paddlefish, chinook salmon, and kokanee (sockeye salmon) when the commission declares an open season when paddlefish, chinook salmon, and kokanee (sockeye salmon) may be taken by snagging;~~

~~(b) the taking of paddlefish, channel catfish, and nongame fish with longbow and arrow, under rules and regulations that the commission prescribes;~~

~~(c) the taking of game fish pursuant to subsection (3);~~

~~(d) the use of landing net or gaff to land a game fish after the game fish has been hooked as specified in this subsection (5);~~

~~(e) the taking of minnows other than game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width in waters designated by the commission;~~

~~(f) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under the rules and regulations that the commission prescribes;~~

~~(g) the taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod; or~~

~~(h) the taking of salmon and lake trout in Fort Peck reservoir by spear or gig from December through March, under rules and regulations prescribed by the commission.~~

~~(6)~~(3) The commission may designate waters where authorized commercial fishing operators may use approved nets, seines, and traps to fish for designated species of nongame fish."

Section 102. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless the importations are shipped direct from the source to destination and a written certification that the source is free of all fish pathogens specified by the department as posing a threat to existing fisheries accompanies the shipment. Certification must be made by a fish pathologist approved by the director. Certification of the source may be by inspection conducted annually or at other times that the director may order.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importations do not present a substantial threat to the

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health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. Import permits apply to all importations from specified and certified species and sources by a permittee until January 31 of the year succeeding the year of issuance, when the permit expires. However, a separate permit is required for importations by a permittee for species or from sources unspecified in the permittee's other permit or permits. ~~It is unlawful to import live salmonid fish or eggs into Montana without first obtaining the permit required by this subsection or to violate any conditions of the permit.~~"

Section 103. Section 87-3-222, MCA, is amended to read:

"87-3-222. When certification unnecessary. (1) Nothing in 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)] may restrict the importation and transportation of dead salmonid fish or eggs when the fish or eggs have been processed or prepared in a manner that kills those fish pathogens specified by the department as posing a threat to fisheries.

(2) Dead salmonid fish or eggs transported into Montana for processing or caught wild are exempt from the requirement for certification. However, it is unlawful to discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems."

Section 104. Section 87-3-224, MCA, is amended to read:

"87-3-224. Enforcement. The cargo and vehicle involved in a violation of ~~87-3-209~~ [section 20(1)(b)] and 87-3-210 or 87-3-221 through 87-3-223 may, at the option of the department, either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department. The department shall inform the department of transportation of the provisions regarding importation of salmonid and nonsalmonid fish and eggs so that the department of transportation may enforce the provisions at ports of entry and checking stations under 60-2-303."

Section 105. Section 87-3-403, MCA, is amended to read:

"87-3-403. Migratory game birds -- closed season and bag limits. Laws relating to migratory birds are prescribed by the regulations of the United States department of interior and the fish and wildlife service. Open season, bag limit, and other rules and regulations are announced each year by proclamation by the

president of the United States. After each proclamation, the department by proper action will adopt, advertise, and enforce ~~such~~ any proclaimed regulations as may be applicable to the state of Montana. ~~Any~~ A person ~~or persons violating any provisions~~ who violates a provision of this section ~~shall be guilty of a misdemeanor and on conviction thereof shall be punished as provided by law~~ is subject to the provisions of [section 39]."

Section 106. Section 87-4-201, MCA, is amended to read:

"87-4-201. Regulation of taxidermists. (1) As used in this section, "taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(2) Before conducting the business of a taxidermist, a taxidermist shall obtain from the department a taxidermist's license and pay an annual license fee of $50.

(3) A taxidermist shall keep a written record of all the articles of wildlife in the taxidermist's possession or control, including the following information:

(a) the kind and number of each article of wildlife;

(b) the name and residence of the owner of the article of wildlife; and

(c) all the articles of wildlife shipped and to whom and where shipped.

(4) The taxidermist shall keep the written record required under subsection (3) for as long as the articles of wildlife remain in the possession of the taxidermist or at least 5 years, whichever is longer. These records must be open to inspection by a warden at any reasonable time.

~~(5) Upon conviction for a violation of this section, the taxidermist's license of the person convicted may be revoked by the court.~~

(5) A person who violates this section is subject to the penalties provided in [section 51]."

Section 107. Section 87-4-306, MCA, is amended to read:

"87-4-306. Violations. ~~No~~ A person, firm, company, or corporation may not violate any of the provisions of this part. A person convicted of a violation is subject to the penalties provided in [section 52]."

Section 108. Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- moratorium -- penalty -- seizure of illegally possessed animals. (1)

A person may not operate an alternative livestock ranch in this state without having first obtained an alternative livestock ranch license from the department prior to November 7, 2000. A person may not apply for or be granted a license after that date.

(2) A person who operates an alternative livestock ranch without a license or possesses, transports, buys, or sells animals whose importation into the state is restricted pursuant to 87-4-424 is ~~guilty of a misdemeanor and is~~ subject to the penalties provided in ~~87-4-427(4)~~ [section 53].

(3) Any animal held in violation of subsection (2) or otherwise illegally possessed may be immediately seized by the department and is subject to disposal by the department. Costs of seizure may be charged to the person in possession of the animal."

Section 109. Section 87-4-427, MCA, is amended to read:

"87-4-427. Revocation of license -- criteria -- penalties. (1) The department may revoke any alternative livestock ranch license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate an alternative livestock ranch according to the provisions of this part, rules adopted under this part, or stipulations of the alternative livestock ranch license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of $100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the alternative livestock ranch operation, including but not limited to the unauthorized egress and ingress of game animal species or alternative livestock that:

(i) threatens public safety;

(ii) endangers native game animal populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the alternative livestock of others;

(f) a material and willful falsification of any required alternative livestock ranch records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of an alternative livestock ranch;

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(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other alternative livestock and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under 87-4-428, that an alternative livestock ranch licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the alternative livestock ranch license for up to 5 years;

(b) imposition of a civil penalty not to exceed $5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to ~~criminal prosecution and a fine of not more than $1,000, imprisonment in the county jail for not more than 1 year, or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section~~ the penalties provided in [section 53]."

Section 110. Section 87-4-601, MCA, is amended to read:

"87-4-601. Sale of fish or spawn ~~unlawful -- exceptions~~. ~~(1) Except as provided in subsections (2) through (4), a person may not, for speculative purposes, for market, or for sale, in any way, catch game fish or remove or cause to be removed the eggs or spawn of any game fish. A person may not sell or offer for sale game fish or the eggs or spawn from game fish.~~

~~(2) The restrictions of subsection (1) do not apply to:~~

~~(a) the catching of fish or the collecting of eggs or spawn in a private fish pond licensed under 87-4-603 by the owner of the pond;~~

~~(b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for use in a private fish pond~~

~~licensed under 87-4-603;~~

~~(c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules of the commission;~~

~~(d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules that the commission prescribes; or~~

~~(e) the sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.~~

~~(3) (a)~~(1) Until June 30, 2018, a person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the Yellowstone River between the burlington northern railroad bridge at Glendive to the North Dakota state line during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection ~~(3)(b)~~ (2) for processing and marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

~~(b)~~(2) The department shall develop rules for selecting one Montana nonprofit organization to accept paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules for the marketing and sale of caviar under this section.

~~(c)~~(3) The department may enter into an agreement with the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2) specifying times, sites, and other conditions under which paddlefish eggs may be collected. The agreement must require the organization to maintain records of revenue collected and related expenses incurred and to make the records available to the department and the legislative auditor upon request.

~~(d) (i)~~(4) (a) Thirty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing must be deposited in a state special revenue fund established for the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery, including fishing access, administration, improvements, habitat, and fisheries management, or to provide information to the public regarding fishing in eastern Montana, which could include the design and construction of interpretive displays.

~~(ii)~~(b) Seventy percent of the proceeds from the sale of paddlefish egg caviar products in excess of the

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costs of collection, processing, and marketing must be paid to the nonprofit organization that processes and markets the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in subsection ~~(3)(b)~~ (2), two area local government representatives, and two representatives of area anglers. The advisory committee shall solicit and review historical, cultural, recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission of its actions. Proceeds may be used as seed money for grants.

~~(4)~~(5) A person may possess and sell legally taken nongame fish, as provided in 87-4-609 and rules adopted by the department pursuant to 87-4-609."

Section 111. Section 87-4-609, MCA, is amended to read:

"87-4-609. Regulation of commercial taking of fish or aquatic organisms -- permit -- rulemaking authority. (1) The department shall regulate the taking, for sale or commercial distribution, of:

(a) crayfish for fishing bait;

(b) crayfish from private fish ponds regulated under 87-4-603;

(c) mysis shrimp;

(d) designated species of nongame fish in waters designated by the commission pursuant to 87-3-204;

(e) whitefish as authorized by statute; and

(f) other aquatic organisms.

(2) ~~It is unlawful for a person~~ In order to obtain a permit to take fish or aquatic organisms for ~~commercial purposes without obtaining a permit from the department. A permit~~ sale or commercial distribution, an applicant shall provide the department with sufficient details of the proposed operation ~~to take any fish or aquatic organism for sale or commercial distribution~~ to enable the department to evaluate any potential overharvest or conflict with existing fishing and recreational uses of the waters.

(3) The department may:

(a) deny a permit if it determines that there is substantial potential that the proposed operation may harm a fishery or conflict with existing recreational uses of the waters;

(b) condition a permit to restrict the method of taking, the location of the taking, and the quality and quantity of harvest to prevent overharvest or conflict with existing fishing and recreational uses of the waters; or

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(c) require a permittee to submit harvest data to the department.

(4) A permit may be revoked for a violation of the conditions of the permit.

(5) The department may adopt rules for the regulation of commercial taking of fish or aquatic organisms, including but not limited to the setting of seasons, methods of taking, quantities of harvest, size limitations, and reporting requirements, to prevent overharvest or conflict with fishing and recreational uses of the waters."

Section 112. Section 87-4-803, MCA, is amended to read:

"87-4-803. Permits. (1) The department may grant permits for roadside menageries, wild animal menageries, and zoos. ~~It is unlawful for any person to operate a roadside menagerie or wild animal menagerie without a permit.~~ Application for a permit must be made to the director on a form prescribed by the director. The annual permit fee for five or less animals is $10. The annual permit fee for more than five animals is $25. Permits expire on December 31 but may be renewed upon payment of the annual fee and submission of a renewal application. This section does not apply to the United States, the state of Montana, or any county or city. A person who subscribes to any false statement in application for a permit is ~~guilty of a misdemeanor~~ subject to the provisions of [section 58] and may be denied a permit.

(2) (a) A permit application for a roadside menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications;

(v) a copy of all required federal permits for exhibition of wild animals; and

(vi) a copy of a liability insurance policy to cover bodily injury or property damage.

(b) A permit application for a wild animal menagerie must include:

(i) the applicant's name and address;

(ii) the exact location of the facility, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications; and

(v) information demonstrating that the applicant is responsible.

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(c) A permit application for a zoo must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a copy of the nonprofit corporation documents approved by the secretary of state's office;

(iv) a copy of the required federal permits for exhibition of wild animals; and

(v) if applicable, a copy of the American zoo and aquarium association accreditation program specific to the facility.

(3) Renewal applications for roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

(4) A permit may not be granted by the department until it has satisfactorily verified that the provisions for housing and caring for the animals and for protecting the public are proper and adequate and in accordance with the standards established by the department.

(5) A permit is not transferable to another person."

Section 113. Section 87-4-807, MCA, is amended to read:

"87-4-807. Enforcement and penalty. (1) The provisions of this part ~~shall~~ must be enforced by any warden or any other legally authorized officer. Any person violating the provisions of this part shall upon conviction be punished as provided in ~~87-1-102~~ [section 58], and at the discretion of the court, the permit and all rights and privileges inherent ~~therein~~ in the permit may be forfeited.

(2) Any animals being kept in violation of any section of this part may be confiscated or ordered disposed of at the discretion of the director. The permittee may appeal to the commission within 20 days of the date of the order to confiscate, and the commission shall hold a hearing on ~~such~~ an appeal. ~~, and the~~ The decision of the commission ~~shall be~~ is final."

Section 114. Section 87-4-903, MCA, is amended to read:

"87-4-903. Game bird farm license required. Except as provided in 87-4-902, a person may not own, control, or propagate game birds unless the person holds a current game bird farm license from the department. A person who violates this section is subject to the penalties provided in [section 59]."

Section 115. Section 87-4-915, MCA, is amended to read:

"87-4-915. Field trials -- permits. (1) As used in this section, "field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(2) ~~A person may not conduct a field trial unless the person has a permit under this section.~~ Applicants for a permit to conduct a field trial shall apply to the director upon a form furnished by the department for that purpose. The application must be signed and sworn to by the applicant, stating the applicant's name and address, the name and address of any national affiliate, the place for the field trial clearly defined, the date or dates of the proposed field trial, whether live birds are to be used, and any other information required by the director to determine the advisability of granting permission for the proposed field trial. The application must state that if a permit is granted, the applicant will carefully flush all wild game birds from fields used for the field trial each day before the field trial begins and will not permit dogs to run free in fields that have not been carefully flushed. The application must be presented to the director not less than 20 days prior to the date proposed for the field trial.

(3) The director may refuse any application that the director determines is not in the best interests of the protection, preservation, propagation, and conservation of game birds in this state. Any denial by the director of an application must state the reasons for denial and must be mailed to the applicant within 10 days of receipt of the application.

~~(4) An applicant receiving a permit to conduct a field trial may not violate or authorize violation of any of the terms of the permit.~~

~~(5)~~(4) All live game birds used in a field trial must be tagged before being planted or released and may be planted or released only in the presence of a representative of the department. If an untagged bird is shot during any field trial, the person to whom the permit was issued shall immediately replace it with a live bird.

~~(6)~~(5) (a) Dogs may be trained in open fields at any time without permission of the director only if:

(i) live game birds are not killed or captured during training; and

(ii) the training is more than 1 mile from any bird nesting or management area or game preserve.

(b) A person may train dogs with a method that will kill birds acquired from a game bird farm only after receiving a written permit from the department and only in compliance with the terms of the permit."

Section 116. Section 87-4-1002, MCA, is amended to read:

"87-4-1002. Fur farm license required -- applicability. (1) Except as provided in subsection (2), a

person may not own, control, or propagate furbearers unless the person holds a current fur farm license from the department.

(2) This part does not apply to the ownership, control, or propagation of furbearers if the ownership, control, or propagation is not for the sale or conveyance of furbearers or parts of furbearers.

(3) A person who violates this section is subject to the penalties provided in [section 60]."

Section 117. Section 87-5-204, MCA, is amended to read:

"87-5-204. License and rules for falconry and raptors. (1) The commission shall adopt specific rules for the keeping of records and for the trapping, taking, possession by residents and nonresidents, selling or transfer of possession, or training of raptors used in the practice of falconry and may authorize the issuance of licenses to persons for the practice of falconry and set license qualifications and fees. Rules adopted under this section are intended to conform to standards and regulations adopted under federal law by being at least as restrictive. ~~Except as provided in 87-5-210, it is unlawful for any person to possess a raptor or to train a raptor in the practice of falconry without a license.~~

(2) Licensees must have in possession a valid falconer's license when engaged in the practice of falconry. In addition, falconers loosing raptors at game birds must have in possession a valid resident or nonresident upland game bird license or waterfowl stamp, as appropriate.

(3) Falconry licenses or permits are not transferable and may be revoked for due cause at any time by the department."

Section 118. Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the provisions on importation or introduction of wildlife contained in the following laws:

(1) Title 80;

(2) ~~87-3-207~~ [section 20(1)(a)] and 87-3-208;

(3) 87-3-221 through 87-3-224 or ~~87-3-209~~ [section 20(1)(b)], 87-3-210, and 87-3-225 through 87-3-227;

(4) 87-4-422;

(5) 87-5-112;

(6) 87-5-205;

(7) 87-5-302; or

(8) Title 81, chapter 2."

Section 119. Section 87-5-721, MCA, is amended to read:

"87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person ~~who violates a provision~~ convicted of a violation of this part ~~is guilty of a misdemeanor punishable as provided in 87-1-102, and~~ shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than $500 or more than $5,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend $500 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit ~~from the date of conviction or forfeiture~~ any current hunting, fishing, or trapping license issued ~~under this title~~ by this state and the privilege to hunt, fish, or trap in this state for not less than 24 months from the date of conviction or forfeiture. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for ~~the lifetime of that person~~ life.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within a time set by the department, not to exceed 6 months. The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does

not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife."

Section 120. Repealer. The following sections of the Montana Code Annotated are repealed:

87-1-102. Penalties -- violation of state law.

87-1-108. Suspension of privileges for failure to comply with citation or sentence.

87-1-109. Fish and game violation as inchoate offense.

87-1-110. Fish and wildlife code not to supersede criminal code -- statute of limitations.

87-1-111. Restitution for illegal killing or possession of certain wildlife.

87-1-112. Finding required.

87-1-113. Payment -- penalty for nonpayment.

87-1-114. Disposition of proceeds.

87-1-115. Restitution for illegal killing or possession of trophy wildlife.

87-1-121. Remedial hunter education program -- sentencing.

87-1-125. Violation of orders or rules -- penalties.

87-1-208. Inspection at checking station.

87-1-231. Tattooing of bears, wolves, tigers, mountain lions, or coyotes -- when required -- penalty.

87-2-103. License required.

87-2-109. Carrying and exhibiting license and identification.

87-2-110. Alteration, attachment, or transfer of license.

87-2-112. Forfeiture of license or permit for littering.

87-2-114. Misdemeanor and felony possession of hunting or fishing license or permit -- penalties.

87-2-120. Lawful means of angling or fishing.

87-2-203. Unlawful sales of licenses.

87-2-205. False statement in license application.

87-2-509. Tagging of carcasses of game animals.

87-2-604. Permission of landowner required.

87-2-804. Revocation of exception.

87-3-101. General restrictions.

87-3-102. Waste of fish or game.

87-3-103. Limit on number of game animals hunted or killed.

87-3-104. Unlawful to hunt or fish during closed season.

87-3-105. Unlawful to import for introduction or to introduce or transplant wildlife.

87-3-107. Use of snare lawful under certain conditions.

87-3-108. Restrictions on use of reproduced sounds.

87-3-109. Attempting to take simulated wildlife decoy -- penalty.

87-3-111. Unlawful possession, shipping, or transportation of game fish, birds, game animals, or fur-bearing animals -- exceptions -- penalties.

87-3-112. Possession and unlawful use of fishing implements.

87-3-116. Outfitting without license -- penalties -- disposition of fines.

87-3-117. Definitions of lawfully killed, captured, or taken and unlawfully killed, captured, or taken.

87-3-118. Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty.

87-3-123. Use of silencers or mufflers on firearms forbidden.

87-3-124. Dogs -- restrictions on hunting -- penalty for chasing hooved game animals.

87-3-125. Restrictions on use of motor vehicles while hunting.

87-3-130. Taking of wildlife to protect persons or livestock.

87-3-134. Restriction on use of electronic motion-tracking device while hunting.

87-3-135. Restrictions on use of archery equipment.

87-3-141. Definitions.

87-3-142. Harassment prohibited.

87-3-143. Penalty.

87-3-144. Injunction.

87-3-205. Unlawful to possess net or seine -- exceptions.

87-3-206. Unlawful to use explosives or poisons in taking fish.

87-3-207. Unlawful to place caged fish in public waters -- exception.

87-3-209. Intrastate movement of diseased fish or eggs unlawful.

87-3-301. Shotgun loads regulated by department.

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87-3-302. Colored garments required on big game hunters.

87-3-304. Landowner's permission required for hunting -- penalty.

87-3-305. Unlawful to hunt deer within city or town boundaries.

87-3-306. Unlawful to destroy evidence of sex.

87-3-307. Contests based on size of game animals unlawful.

87-3-401. Restrictions on rifles for bird hunting.

87-3-402. Unlawful to violate closed season on certain game birds.

87-3-404. Tagging of turkey.

87-3-405. Failure to tag turkey.

87-3-501. Open and closed season for fur-bearing animals -- exception.

87-3-503. Destruction of beaver and muskrat houses unlawful.

87-3-504. Metal tags required on traps.

87-3-505. Penalty.

87-3-506. Wasting of fur-bearing animals.

87-3-507. Unlawful to disturb traps or trapped animals belonging to another -- exception.

87-4-608. Unlawful taking of crayfish -- penalty.

87-4-1014. Unlawful capture.

Section 121. Codification instruction. (1) [Sections 1 through 80] are intended to be codified as an integral part of Title 87, and the provisions of Title 87 apply to [sections 1 through 80].

(2) [Section 81] is intended to be codified as an integral part of Title 87, chapter 4, part 5, and the provisions of Title 87, chapter 4, part 5, apply to [section 81].

Section 122. Coordination instruction. If both House Bill No. 337 and [this act] are passed and approved, then [sections 2 and 4 of House Bill No. 337] are void and [section 1 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 80], the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,

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antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state

of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals

may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(32) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(34) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(36) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

Section 123. Coordination instruction. If both House Bill No. 536 and [this act] are passed and approved, then [sections 1 of House Bill No. 536], amending 87-3-111, is void and [section 8 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 8. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601; or

(e) captive-reared migratory waterfowl.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed

by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $500 or more than $2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $300 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition,

the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed $1,000, the person shall be fined not less than $100 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, the person shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in [section 63].

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

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(9) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69]."

Section 124. Coordination instruction. If both House Bill No. 336 and [this act] are passed and approved, then [section 3 of House Bill No. 336], amending 87-3-102, is void and [section 11 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 11. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3), a person responsible for the death of any game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

(a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from the carcass of a game animal;

(b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

(2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food may not purposely or knowingly waste the game by:

(a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

(3) A person responsible for the death of a mountain lion, except as provided in [section 6], may not abandon the head or hide in the field.

(4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes pursuant to 87-3-110.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of a violation of this section may be fined not less than $50 or more than $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 through 69].

(7) A person convicted of waste of game by abandonment in the field may be subject to the additional penalties provided in [section 63]."

Section 125. Coordination instruction. If both House Bill No. 536 and [this act] are passed and approved, then [section 2 of House Bill No. 536], amending 87-3-118, is void and [section 12 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 12. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in [sections 68 and 69]. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed $1,000, then the person shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds $1,000, then the person shall be fined not more than $50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken."

Section 126. Coordination instruction. If both House Bill No. 536 and [this act] are passed and approved, then [section 13 of Senate Bill No. 124] is void.

Section 127. Coordination instruction. If both Senate Bill No. 135 and [this act] are passed and approved, then [section 1 of Senate Bill No. 135], amending 87-3-124, is void and [section 36 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 36. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable

unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-3-302;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall immediately tag an animal that has been reduced to possession in accordance with 87-2-509.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements

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under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal.

(6) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(7) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8) A violation of this section may also result in an order to pay restitution pursuant to [sections 67 through 69]."

Section 128. Coordination instruction. If both House Bill No. 336 and [this act] are passed and approved, then [section 4 of House Bill No. 336], amending 87-3-506, is void and [section 48 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 48. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely or knowingly:

(a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing animal is wasted;

(b) attending traps or snares so that fur-bearing animals are wasted; or

(c) wasting the pelt of any fur-bearing animal.

(2) The department shall enforce the provisions of this section.

(3) The following are exempt from this section:

(a) federal, state, and county predator control programs; and

(b) pelts of muskrat and beaver killed pursuant to [section 47(2)].

(4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

(5) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon conviction or forfeiture of bond or bail, shall:

(a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period; and

(b) pay restitution pursuant to [section 67 and 68]."

Section 129. Coordination instruction. If both House Bill No. 336 and [this act] are passed and approved, then [section 1 of House Bill No. 336], amending 87-1-111, is void and [section 68 of Senate Bill No. 124] reads as follows:

"NEW SECTION. **Section 68. Restitution for illegal killing, possession, or waste of certain wildlife.** (1) Except as provided in [section 69] and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal taking, killing, possession, or waste of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) mountain sheep and endangered species, $2,000;

(b) elk, caribou, bald eagle, black bear, wolf, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals that are not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section."

Section 130. Coordination instruction. If both House Bill No. 336 and [this act] are passed and approved, then [section 2 of House Bill No. 336], amending 87-1-115, is void and [section 69 of Senate Bill No.

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124] reads as follows:

"NEW SECTION. **Section 69. Restitution for illegal killing, possession, or waste of trophy wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely or knowingly illegally killing, taking, possessing, or wasting a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000."

Section 131. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 132. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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